STATE LIBRARY OF PENNSYLVANIA
341.6W893p
main,stks
World Peace Foundation pamphle
v.12 1929/1930 World Peace Foundation
0 0001 00664335 5

REFERENCE

PENNSYLVANIA STATE LIBRARY
1745

COLLECTIONS

04-83-479-2

VOLUME XII

Concludes the numbered pamphlet series published by the World Peace Foundation.

World Peace Foundation publications will continue the service rendered to users of this series, in two editions.

LIBRARY EDITION — Printed on fine book paper, fully indexed, and substantially bound in cloth. Sold individually at an average price of $2.50 each. Available on a subscription basis, six consecutive titles, $10.00.

STUDENT EDITION — An economical form designed primarily for school use. Bound individually in paper covers. No indexes. Sold for $0.75 each, or by subscription for six consecutive titles at $2.50.

NO FURTHER ANNUAL BOUND VOLUMES WILL BE ISSUED.

World Peace Foundation Pamphlets

VOLUME XII

1929

(Includes individual indexes)

WORLD PEACE FOUNDATION
40 MT. VERNON STREET, BOSTON

World Peace Foundation

40 MT. VERNON STREET, BOSTON, MASSACHUSETTS

Founded in 1910 by Edwin Ginn

Board of Trustees

GEORGE H. BLAKESLEE, *President*

WILLIS J. ABBOT
GEORGE W. ANDERSON
FRANK AYDELOTTE
ISAIAH BOWMAN
ROLAND W. BOYDEN
JOHN H. CLARKE
LEONARD W. CRONKHITE, JR.
STEPHEN P. DUGGAN
HARRY A. GARFIELD
ALANSON B. HOUGHTON
MANLEY O. HUDSON
A. LAWRENCE LOWELL
GEORGE A. PLIMPTON
JEREMIAH SMITH, JR.

S-R
341.6
W893p

General Staff

RAYMOND T. RICH, *Director*

DENYS P. MYERS
Research

MARIE J. CARROLL
Reference

HAZEL C. BENJAMIN
Library

MARY J. MACDONALD
Treasurer

HOLLAND HUDSON
Distribution

FARRELL SYMONS
Distribution

ERNEST R. BRYAN
Field Secretary

ANNA M. GALVIN
Assistant to Director

卐

THE Foundation operates upon the policy that the actual facts concerning international relations and official international cooperation constitute the best possible arguments for lasting peace and improved international understanding. Its activities are, therefore, focused upon the task of making these facts available in clear and undistorted form.

WORLD PEACE FOUNDATION PUBLICATIONS

Subscription rate, student edition, six issues $2.50

LIBRARY EDITION

Each pamphlet is also published in a special book edition, finely bound in maroon cloth, with complete index. Advance subscription, six books, $10.00

PENNSYLVANIA STATE LIBRARY

CONTENTS

No. 1. NINE YEARS OF THE LEAGUE OF NATIONS, 1920–28 (Ninth Yearbook), by DENYS P. MYERS

		PAGE
I.	WHAT THE LEAGUE OF NATIONS IS	1
	Engagements under Covenant	1
	The conference method of operation	5
	Prevention of war	8
	The League and International Relations	11
II.	ORGANS OF THE LEAGUE	13
	1. Members of the League	13
	States not Members	20
	2. Organs	21
	The Assembly	21
	The Council	24
	The Secretariat	32
	3. Finances of the League	35
	4. Registration of Treaties	41
III.	PROMOTION OF INTERNATIONAL COOPERATION	43
	1. Economic and Financial Organization	43
	The Economic Organization	45
	World Economic Conference	46
	Economic Consultative Committee	49
	Economic Committee	50
	Import and export prohibitions	51
	Customs formalities	53
	Arbitration of commercial disputes	54
	Unfair competition	55
	Unification of economic statistics	56
	Future conferences	56
	Financial Committee	58
	Financial reconstruction	59
	Counterfeiting of currency	67
	Mixed Greco-Bulgarian Emigration	68
	Central Bank statistics	69
	Double taxation	69
	2. Organization for Communications and Transit	70
	Conferences	71
	Advisory and Technical Committee	71
	Conference of Press Experts	73
	Freedom of transit	76
	Ports and maritime navigation	79
	Inland navigation	83
	Transport by rail	86
	Electric questions	89
	Road traffic	91
	Calendar reform	92
	Adjustment of disputes	95
	The Straits Commission	97

241383

PAGE
3. The Health Organization 98
Composition of Organization 99
Fight against epidemics 100
Interchanges of public health officials . . . 104
Relations with special areas 106
Standardizing sera 107
Malaria Commission 109
Infant mortality 110
Cancer 111
Health insurance 111
Tropical diseases 112
4. Intellectual Cooperation 112
International Institute 116
University relations 117
Science and bibliography 120
Arts and letters 121
Intellectual rights 123
Instruction of youth 125
5. Suppression of Opium Traffic 128
International engagements 129
Far Eastern control 132
Duties of the Committee 133
Production in Persia 135
Administrative control 136
6. Women and Children 136
Traffic in Women 136
Child Welfare Committee 140
Obscene publications 143
7. Refugees and Relief of Distress 145
Greek Refugee Settlement Commission . . 146
Bulgarian refugees 149
International relief 150
8. Mandates and Backward Peoples 152
Classes 153
Permanent Mandates Commission . . . 156
Operation of the system 160
Slavery convention 162
9. Protection of Minorities 163
Treaty provisions 164
Petitions 165
Disputes arising under guaranties . . . 167
Albanian minority in Greece 169
Moslems (Albanian) in Greece 170
Emigration commissions 171
10. Administration of Territory 172
The Saar Basin 172
Free City of Danzig 174
11. Progressive Codification of International Law . . 179
Unification of Private Law 184

IV. Achievement of Peace and Security . . . 186
1. Reduction of Armament 186
Committees at work 189

PAGE

Preparation for conference 190
Other decisions 192
Exercise of right of investigation . . . 197
2. Arbitration and Security 201
General Act 202
Mutual assistance and nonaggression . . . 203
Means for war prevention 204
3. Pacific Settlement of Disputes 205
Disputes handled 207

APPENDIX: LIST OF MEETINGS 215

No. 2. ORIGIN AND CONCLUSION OF THE PARIS PACT. The Renunciation of War as an Instrument of National Policy, by DENYS P. MYERS

PAGE

I. EFFORTS TO LIMIT THE WAR POWER 1
The problem of sanctions 4
The forestalling of war 9
Aggressive war called a crime 12
"Arbitration, security, reduction of armament" . . 14
Geneva protocol fails 16
Effects of Locarno 18
Growth of pacific settlement 21
The place of the Permanent Court 23
Aggression and pacific settlement 25
General Act and model treaties 27
Attitude of the United States 31

II. NEGOTIATION OF THE TREATY 34
1. The French proposal 34
Reception in United States 35
2. The multilateral proposal 37
Multilateral form agreed to 40
Debate over aggression 41
American position 43
Drafts sent to principal Governments . . . 45
Dominions and Locarno states added . . . 48
Interpretative note of June 23 50
Assent of fourteen invited parties 53

III. ENTRANCE OF THE TREATY INTO FORCE 57
1. Signing and extension to the world . . . 57
Forty-nine invitations to adhere 58
2. Action of the American Senate 63
Formal report and passage 66
3. Soviet Union negotiates Moscow Protocol . . 71
4. Ratifications and adhesions 74
Status of General Treaty for Renunciation of War 77

PAGE

IV. American System of Pacific Settlement . . . 81
New arbitration treaty 83
Changes in arbitral scope 85
Appointment of conciliation commissioners . . . 90
Network of treaties 91
Conspectus of American treaties 94

Appendix I

I. Franco-American Negotiations on the Renunciation of War:
1. Draft of Pact of Perpetual Friendship between France and the United States, June 20, 1927 . 101
2. The Secretary of State to the French Ambassador, December 28, 1927 102
3. The French Ambassador to the Secretary of State, January 5, 1928 103
4. The Secretary of State to the French Ambassador, January 11, 1928 105
5. The French Ambassador to the Secretary of State, January 21, 1928 107
6. The Secretary of State to the French Ambassador, February 27, 1928 109
7. The French Ambassador to the Secretary of State, March 30, 1928 111

II. Proposals to the "Principal Powers":
1. Note delivered by American Ambassadors at London, Berlin, Rome and Tokyo, April 13, 1928 . . 116
2. Draft of proposed treaty submitted by the French Government to the United States, Great Britain, Germany, Italy and Japan, April 20, 1928 . . 119
3. Reply of the German Government to the American Government's note, April 27, 1928 . . . 121
4. The Italian Minister of Foreign Affairs to the American Ambassador, May 4, 1928 122
5. The Minister for Foreign Affairs of Japan, Baron Giichi Tanaka, to the American Ambassador in Tokyo, Charles MacVeagh, May 26, 1928 . . 123
6. The Secretary of State for Foreign Affairs of Great Britain, Sir Austen Chamberlain, to the American Ambassador in London, Alanson B. Houghton, May 19, 1928 124

III. Inclusion of Self-Governing Dominions:
1. Note to His Britannic Majesty's Governments in Canada, Irish Free State, Australia, New Zealand, South Africa and India, May 22, 1928 . . 128
2. Canadian Reply, May 30, 1928 129
3. Reply of the Irish Free State Government to Minister Sterling at Dublin, May 30, 1928 . . . 130
4. Reply of the New Zealand Government through the British Ministry for Foreign Affairs, May 30, 1928 131

PAGE

5. Reply of the Commonwealth of Australia through the British Ministry for Foreign Affairs, June 2, 1928 132
6. Reply of the Government of India through the British Ministry for Foreign Affairs, June 11, 1928 . . 132
7. Reply of the Government of the Union of South Africa through the British Ministry for Foreign Affairs, June 15, 1928 133

IV. Second American Draft:
1. Identic notes to the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, Irish Free State, Italy, Japan, New Zealand, Poland, and South Africa, and accompanying draft multilateral Treaty for the Renunciation of War, delivered at the respective Foreign Offices, June 23, 1928 135
2. Reply of the German Government, July 11, 1928 . 142
3. Reply of the French Government, July 14, 1928 . 143
4. Reply of the Government of the Irish Free State, July 14, 1928 144
5. Reply of the Italian Government, July 15, 1928 . 145
6. Reply of the Canadian Government, July 16, 1928 . 145
7. Reply of the Government of Belgium, July 17, 1928 . 145
8. Reply of the Government of Poland, July 8, 1928 . 146
9. Reply of the Government of Great Britain, July 18, 1928 147
10. Reply of the Australian Government, July 18, 1928 . 149
11. Reply of the Government of India, July 18, 1928 . 149
12. Reply of the Government of New Zealand, July 18, 1928 150
13. Reply of the Government of the Union of South Africa, July 18, 1928 150
14. Reply of the Czechoslovak Government, July 20, 1928 151
15. Reply of the Japanese Government, July 20, 1928 . 153

Appendix II

I. The Treaty for the Renunciation of War . . 155
1. Text of the Treaty as signed at Paris, August 27, 1928 155

II. Invitation to Other States to Adhere . . . 158
1. The note of invitation 158
2. Selected replies to the invitation 160
a. Afghanistan (adhesion) 160
b. Brazil 161
c. Cuba (adhesion *ad referendum*) . . . 161
d. Egypt (adhesion *ad referendum*) . . . 163
e. Hungary (adhesion *ad referendum*) . . . 164
f. Lithuania (adhesion *ad referendum*) . . 165
g. Persia (adhesion *ad referendum*) . . . 166
h. Rumania 166
i. The Soviet Union (adhesion *ad referendum*) . 167
j. Switzerland 172

PAGE

III. Ratifications and Adhesions 174
1. Declaration of adhesion of the Union of Socialist Soviet Republics, September 6, 1928 . . . 174
2. Ratification of the United States, January 17, 1929 . 174
3. Procès Verbal of the deposit of ratifications of the Treaty signed at Paris, August 27, 1928 . . 175

IV. Protocol Signed at Moscow February 9, 1929, on Behalf of the Governments of Estonia, Latvia, Poland, Rumania and the Union of Socialist Soviet Republics 177

Appendix III

I. The Pacific Settlement System 179
1. The United States 179
a. Treaty of Arbitration 179
b. Treaty of Conciliation 181
2. The General Act adopted by the League of Nations Assembly, September 26, 1928 . . . 182
Convention A. Bilateral Convention for the Pacific Settlement of All International Disputes . 191
Convention B. Bilateral Convention for Judicial Settlement, Arbitration and Conciliation . . 193
Convention C. Bilateral Conciliation Convention 193
Treaty D. Collective Treaty of Mutual Assistance 194
Treaty E. Collective Treaty of Non-Aggression . 196
Treaty F. Bilateral Treaty of Non-Aggression . 196

No. 3. THE PACIFIC AREA. An International Survey, by George H. Blakeslee, Professor of History and International Relations at Clark University

PAGE

Introduction 1
I. China's Relations with the Powers as a Whole: The Unequal Treaties 4
Tariff autonomy 5
The Chinese maritime customs service . . . 17
Extraterritoriality 19
Treaty revision 33
Concessions and settlements 44
Other unequal privileges 55
Leaseholds 55
Foreign troops and warships in China . . . 57
Inland navigation 58
Missionaries 59
Financial supervision and control 59
The recognition of the National Government . . 61
The new capital at Nanking 61

PAGE

II. China's Relations with Individual Powers . . . 66
United States 66
Great Britain 71
Japan 73
Soviet Union 80

III. Manchuria 88
Map . . . . . opposite 88
Sino-Soviet relations 89
Soviet-Japanese relations 100
Sino-Japanese relations 102
Fundamental divergence in viewpoint . . . 102
The concrete issues 107
Railroad controversies 109
The proposed Morgan loan 113
Maintenance of peace and order 116

IV. Japan's Foreign Relations 120
Relations with the Soviet Union 120
Relations with America 123
Immigration exclusion 125

V. The British Dominions 127
Australia 128

VI. Agreements for Preserving Peace in the Pacific . 131
Limitation of fortifications and naval bases . . . 131
Four power pact 132
Nine power treaty regarding China 133
Pact of Paris 134
League of Nations 135
Bipartite treaties for promotion of peace . . . 136
Suggestions for additional treaties 138

APPENDIX

I. China and Foreign Powers 139
1. Declaration by the Nationalist Government, June 16, 1928 139
2. Declaration by the ministry of foreign affairs of the Nationalist Government, July 8, 1928 . . . 140
3. Resolution passed by the Third National Congress of the Kuomintang with regard to China's foreign relations, March 15–28, 1929 141
4. Manifesto of the Kuomintang Central Executive Committee, June 18, 1929 144

II. Chinese Treaty Revision 148
1. American and British policy 148
Note of the Nationalist minister for foreign affairs (General Hwang Fu) to the American minister, Shanghai, April 2, 1928; Dr. C. T. Wang to the British minister, Shanghai, August 9, 1928 . . 148
The American minister to China, J. V. A. MacMurray, to General Hwang Fu, minister for foreign affairs, Nanking, April 2, 1928 . . 148

PAGE

The British minister, Sir Miles W. Lampson, to Dr. C. T. Wang, minister for foreign affairs, August 9, 1928 149
2. The Sino-Japanese negotiations 150
Memorandum of the Nationalist Government, August 14, 1928 150
The Japanese minister to the Chinese minister for foreign affairs, April 26, 1929 152
The Chinese minister for foreign affairs to the Japanese minister, April 27, 1929 154

III. Settlement of the Nanking Incident of March 24, 1927 155
1. Verification of injuries and damages 155
Note of the Nationalist minister for foreign affairs to the American minister, Shanghai, April 2, 1928; to the British minister, Shanghai, August 9, 1928, and to the Japanese minister, Nanking, May 2, 1929 155
The American minister to China, J. V. A. MacMurray, to General Hwang Fu, minister for foreign affairs, Nanking, April 2, 1928 . . 156
The British minister, Sir Miles W. Lampson, to Dr. C. T. Wang, minister for foreign affairs, August 9, 1928 157
The Japanese minister to Dr. C. T. Wang, minister for foreign affairs, May 2, 1929 157
2. Use of war vessels — expressions of regret . . . 158
Note of the Nationalist minister for foreign affairs (General Hwang Fu) to the American minister, Shanghai, April 2, 1928, and of Dr. C. T. Wang to the British minister, Shanghai, August 9, 1928 158
The American minister to China, J. V. A. MacMurray, to General Hwang Fu, minister for foreign affairs, Nanking, April 2, 1928 . . . 158
The British minister, Sir Miles W. Lampson, to Dr. C. T. Wang, minister for foreign affairs, August 9, 1928 159

IV. Chinese Tariff Autonomy 160
1. Treaty regulating tariff relations between the United States of America and the Republic of China, signed at Peiping, July 25, 1928 . . . 160
France — special conditions 161
Netherlands — special conditions 163
2. Treaty between His Britannic Majesty and the President of the Chinese Republic relating to the Chinese customs tariff, etc., with the annexes thereto, signed at Nanking, December 20, 1928 . 164
3. Preliminary treaty of amity and commerce between the Republic of China and the Kingdom of Italy, signed at Nanking, November 27, 1928 . . 167
Portugal — special conditions 169

PAGE

V. EXTRATERRITORIALITY IN CHINA 171
1. Recommendations in the report to the Governments of the Commission on Extraterritoriality in China, Peking, September 16, 1926 171
2. Preliminary treaty of amity and commerce between the Republic of China and the Kingdom of Italy, signed at Nanking, November 27, 1928 . . 174
Annex I — Notes between Dr. C. T. Wang and the Italian minister for foreign affairs . . . 175
Annexes II, III, IV — Declarations in treaties with Belgium, Denmark, Italy, Portugal and Spain . 176
Belgium — special stipulation 177
3. Chinese note concerning abolition of extraterritoriality, April 27, 1929 177
4. American Government's reply to the Chinese note on extraterritoriality, August 10, 1929 . . . 179

VI. JAPANESE POLICY TOWARD CHINA 183
1. Statement of Premier Tanaka at the Oriental Conference, July 7, 1927 183
2. Premier Tanaka's statement of policy to the Imperial Diet, January 22, 1929 185
3. Manifesto of the Japanese Cabinet, July 9, 1929 . 186

VII. MANCHURIA 188
1. Japanese interests and policy 188
a. Interests 188
Convention between Russia and China for the lease of the Liaotung Peninsula, signed at Peking, March 27, 1898 188
Treaty of peace between Japan and Russia, signed at Portsmouth, September 5, 1905 . . . 190
Treaty between China and Japan relating to Manchuria, signed at Peking, December 22, 1905 190
Treaty between China and Japan respecting South Manchuria and Eastern Inner Mongolia, signed at Peking, May 25, 1915 . . . 191
Exchange of notes respecting the terms of lease of Port Arthur and Dalny and the terms of South Manchurian and Antung-Mukden Railways 191
b. Policy . . . . . .
Statement by Baron Tanaka to the ambassadors of America, Great Britain, France and Italy, May 17, 1928 192
Memorandum presented by the Japanese minister to Marshal Chang Tso-lin, May 18, 1928 . 192
Declaration of the Peking Government, May 25, 1928 193

PAGE

2. Soviet relations and activities 194
   a. General relations 194
      Agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, signed at Peking, May 31, 1924 . . . 194
      Exchange of notes 199
   b. Chinese Eastern Railway 199
      Contract for the construction and operation of the Chinese Eastern Railway between Russia (Russo-Chinese Bank) and China, September 8, 1896 199
      Agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, signed at Peking, May 31, 1924 . . . 202
      Agreement for the provisional management of the Chinese Eastern Railway, signed at Peking, May 31, 1924 203
      Agreement entered into between the Autonomous Government of the Three Eastern Provinces of the Republic of China and the Government of the Union of Soviet Socialist Republics, signed at Mukden, September 20, 1924 . . . 206
   c. Dispute over Chinese assumption of railway control and communist activities 209
      The Soviet acting commissar to the Chinese chargé d'affaires at Moscow, July 13, 1929 . 209
      The Soviet acting commissar to the Chinese chargé d'affaires at Moscow, July 18, 1929 . 214
      Communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war, August 19, 1929 216

VIII. Agreements for Peace 220
   1*a.* Treaty between the United States, the British Empire, France and Japan, relating to their insular possessions and insular dominions in the region of the Pacific Ocean, signed at Washington, December 13, 1921 220
      Reservation of the United States . . . 221
      Declaration signed separately by United States, the British Empire, France and Japan, December 13, 1921 221
   1*b.* Treaty between the United States, the British Empire, France and Japan supplementary to the treaty relating to their insular possessions and insular dominions in the region of the Pacific Ocean, signed at Washington, February 6, 1922 . . 221
   2. Treaty between the United States, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington, February 6, 1922 222
   3. Treaty for the renunciation of war as an instrument of national policy, signed at Paris, August 27, 1928 223

No. 4. THE UNITED STATES AND THE WORLD COURT, by Philip C. Jessup, Assistant Professor of International Law, Columbia University

PAGE

I. From Senate Reservations to Root Plan . . . 1
The acceptance of the Senate reservations . . . 12

II. Negotiations on the United States Reservations . 14
First reservation: *re* legal relations with League of Nations and obligations under the treaty of Versailles 14
Second reservation: *re* equality with Members of League of Nations 16
Third reservation: *re* expenses of the Court . . . 18
Fourth reservation: first part — *re* withdrawal . . 19
Fourth reservation: second part — *re* amendment of the Statute of the Court 23
Fifth reservation: first part — *re* publicity in connection with advisory opinions 24
Fifth reservation: second part — *re* advisory opinions "touching any dispute or question in which the United States has or claims an interest" . . . 28

III. Proposed Amendments to the Statute 59
Composition of the Court 61
Permanent functioning of the Court 62
Functions and occupations incompatible with membership of the Court 64
Manner of forming the Court 65
Resignation of a judge 66
Filling of occasional vacancies 66
Salaries of judges 67
National judges 68
Advisory opinions 70
Other matters 72
Procedure on amending the Statute 74

Appendix I

States which have Signed the Protocol of the Permanent Court of International Justice (as of October 1, 1929) . . 79
Other States to which the Court is Open 80
Protocol of Signature 81
Optional Clause 82
States which have Signed the Optional Clause (as of October 15, 1929) 82

I. Statute for the Permanent Court of International Justice, showing Proposed Amendments 83

PAGE

II. Report Adopted by the Committee of Jurists on the Question of the Amendment of the Statute, March 19, 1929 104
1. Composition of the Court 106
2. Election of judges 107
3. Resignation of a judge 107
4. Filling of occasional vacancies 107
5. New Article 15 108
6. Functions and occupations incompatible with membership of the Court 108
7. Article 17 109
8. Permanent functioning of the Court . . . 110
9. Manner of forming the Court 111
10. Special chamber for labor cases 112
11. Special chamber for transit and communications cases 113
12. Chamber for summary procedure 114
13. National judges 114
14. Salaries of judges 115
15. Contributions of states not Members of the League of Nations 117
16. Amendment to No. 4 of Article 38 . . . 118
17. Procedure 118
18. Communication of applications 118
19. Direction of the hearing 118
20. Advisory opinions 119

III. Convocation of a Conference: Report and Resolution of the Council of the League of Nations, June 12, 1929 122

IV. Protocol concerning Revision of the Statute, September 14, 1929 124
Annex to Protocol 126

V. The United States and Revision 127
Letter from the President of the Conference of Signatory States to the Assembly of the League of Nations . 127

Appendix II

I. Senate Resolution Giving Advice and Consent of the Senate to the Adhesion by the United States to the Protocol of December 16, 1920, with Reservations, January 27, 1926 128

II. Preliminary Draft of a Protocol Adopted by the Conference of States Signatories, September 23, 1926 . 130

III. Resolution of the Council of the League of Nations, March 9, 1929 133

IV. Elihu Root's Suggested Redraft of Art. 4 of the Protocol of 1926 138

PAGE

V. Report Adopted by the Committee of Jurists, March 18, 1929 140

VI. Action of the Council of the League of Nations: Report and Resolution, June 12, 1929 146

VII. Assent of United States Government 148
1. Aide-mémoire presented on August 14, 1929, by the American Minister at Bern to the Secretary General of the League of Nations 148
2. Statement by the Secretary of State, September 5, 1929 148

VIII. Report of The First Committee to The Assembly of the League of Nations 150

IX. Protocol Regarding the Accession of the United States of America to the Protocol of Signature of the Permanent Court of International Justice opened for Signature at Geneva, September 14, 1929 . . 156

No. 5. THE REPARATION SETTLEMENT, 1930, by Denys P. Myers

PAGE

I. The Development of the Problem 1
Spa percentages of distribution 4
"Sanction" of Ruhr occupation 7
The Dawes Plan 9
Agreement for final settlement 14

II. The Liquidation of the Problem 18
1. The Committee of Experts, 1929 18
Elements of the New Plan 20
2. First Conference of Governments 22
The August Conference meeting 23
The British demands 25
3. Elimination of Sanctions 28
End of Rhineland occupation 31
4. Final Session of Conference 35
German Nationalist opposition defeated . . 37
Final documents of the Conference 39
Special decisions of the Conference 44

III. Establishment of Annuities 50
Schedule of Annuities 52
Features of the annuities 53
Amount and distribution of annuities 56
Adjustments between annuity years 59
Adjustments for transitional period 61
Special United States position 64
Source of the annuities 67

PAGE

The nonpostponable portion 73
The postponable portion 77
Deliveries in kind 80
Dawes annuity distribution 86
By countries 86
By classes 87

IV. The Bank for International Settlements . . 88
1. Abolition of semi-political organizations . . . 88
The system supplanted 89
2. The structure and functions of the Bank . . . 92
Objects and capital distribution 94
Operations and functions 96
The annuity trust account 98
Directorate and management 100
Distribution of Profits 102
Instrument of international cooperation . . 104

V. Commercialization and Mobilization . . . 106

VI. Liquidation of the Past 112
Pre-Dawes accounts obsolete 114
Dissolution of joint liability 116
Unliquidated property 124

VII. Payment of Governmental Debts 128
The Belgian "marks" settlement 135
Sums to be paid by Germany to Belgium . . . 139

Conspectus of All Reparation Payments 140

Receipts on All Accounts, 1930–36 141

APPENDIX 142

I. The New Plan 142
1. Report of the Committee of Experts, June 7, 1929 . 142
1. Appointment, terms of reference and Constitution 143
2. Meetings of committee 144
3. Attitude of the committee 145
4. The study of Germany's economic conditions . 146
5. Course of the proceedings 148
6. Bank for International Settlements . . 151
A. General reasons for the constitution of an institution with banking functions 151
B. Organization of the Bank . . . 153
C. General observations on the Bank . 155
7. The influence of the form of the annuity on the amount 157
8. Annuities 158
Composition of the annuities 162
8(*a*). Source and securities 162
8(*b*). Progression 166

PAGE

8(*c*). The nonpostponable annuities . . . 166
8(*d*). The postponable annuities . . . 167
8(*e*). Measures of safeguard 167
8(*f*). Deliveries in kind 169
9. Liquidation of the past 171
10. Commercialization and mobilization . . 173
11. The New Plan contrasted with the Dawes Plan 174
12. Conclusions 176

Annexes:
(Annexes I–VI, indicated) 178
Annex VII. Distribution of the annuities proposed by the Experts of the creditor countries represented on the Committee . . . 179
Table showing the distribution of Deliveries in Kind among the creditor powers . . . 184
Annex VIII. Guaranty Fund in respect of unconditional annuities . . . 187

2. Protocol approved at the plenary session of the Hague Conference held on August 31, 1929 188
Annex I. Financial agreement between the Belgian, British, French, Italian and Japanese delegations, and the German delegation, in so far as Germany is concerned . . 188
Annex II. Agreement regarding Deliveries in Kind 190
Appendix I to Annex II . . 191

3. Agreement with Germany 192

II. The Bank for International Settlements . . 203
1. Convention respecting the Bank for International Settlements, signed at The Hague, January 20, 1930, incorporates 203
Constituent Charter of the Bank for International Settlements 204
Annex: Statutes of the Bank for International Settlements 206
Chapter I. Name, seat and objects . . 206
Chapter II. Capital 207
Chapter III. Powers of the Bank . . 209
Chapter IV. Management 212
Chapter V. General Meeting . . . 215
Chapter VI. Accounts and profits . . 216
Reserve funds 218
Chapter VII. General provisions . . . 218
2. Form of Trust Agreement between the Creditor Governments and the Bank for International Settlements 220
[Exhibit A] Debt certificate of the German Government 232

PAGE

III. INTERGOVERNMENTAL INDEBTEDNESS 239
1. Arrangement relating to the concurrent memorandum accompanying the Experts' Plan of June 7, 1929 239
Annex: Special Memorandum of the Experts of the Principal Creditor Powers and of Germany regarding Out-Payments 241
2. Agreement between Germany and the United States 243
Agreement 243
Notes exchanged simultaneously with execution of the Agreement 248

No. 6. LATIN AMERICAN RELATIONS WITH THE LEAGUE OF NATIONS, by WARREN H. KELCHNER, Ph.D.

PAGE

I. INTRODUCTION 1

II. ENTRANCE INTO THE LEAGUE OF NATIONS 10
1. General Influences 10
2. Attitude in the Great War 15
A. South American Republics 16
Brazil 16
Uruguay 21
Peru 25
Bolivia 28
Ecuador 29
Argentina 29
Chile 32
Other States 33
B. Caribbean Republics 34
Cuba 34
Central America 36
Dominican Republic 40
Haiti 40
Mexico 40
3. Method of Acquiring Membership 41
Cuba 43
Peru 43
Argentina 46
Chile 49
Other States 51

III. PARTICIPATION IN THE LEAGUE 55
1. South American Republics 55
Brazil 55
Chile 74
Argentina 91
Peru 103
Uruguay 106

PAGE

Colombia 109
Venezuela 112
Bolivia 113
Paraguay 115
2. Caribbean Republics 115
Cuba 115
Panama 120
Salvador 128
Costa Rica 131
Haiti 134
Dominican Republic 136
Guatemala 137
Nicaragua 137
Honduras 138
3. Summary 138

IV. Special Phases of Cooperation 142
1. Liaison Office 142
2. Participation in Conventions 162
3. Finances 169
Table: Budget Units Payable by Latin American States 170
Table: Comparison of Budgets for 1929 . . 175
4. Cooperation on Health Questions 175
5. Pan American Union and the League of Nations . 178
6. The Dispute Between Bolivia and Paraguay . . 179

V. Relations with the International Labor Organization 194
Table: Latin American Representation in Sessions of the International Labor Conference . . . 196–197
Table: Attendance at the Conference of the International Labor Organization 205

NINE YEARS

OF THE

LEAGUE OF NATIONS

1920-28

(NINTH YEARBOOK)

By DENYS P. MYERS

WORLD PEACE FOUNDATION PAMPHLETS
40 MT. VERNON STREET, BOSTON
VOL. XII 1929 NO. 1

Copyright, 1929
By World Peace Foundation
Boston, Massachusetts

CONTENTS

		PAGE
I.	WHAT THE LEAGUE OF NATIONS IS	1
	Engagements under Covenant	1
	The conference method of operation	5
	Prevention of war	8
	The League and International Relations	11
II.	ORGANS OF THE LEAGUE	13
	1. Members of the League	13
	States not Members	20
	2. Organs	21
	The Assembly	21
	The Council	24
	The Secretariat	32
	3. Finances of the League	35
	4. Registration of Treaties	41
III.	PROMOTION OF INTERNATIONAL COOPERATION	43
	1. Economic and Financial Organization	43
	The Economic Organization	45
	World Economic Conference	46
	Economic Consultative Committee	49
	Economic Committee	50
	Import and export prohibitions	51
	Customs formalities	53
	Arbitration of commercial disputes	54
	Unfair competition	55
	Unification of economic statistics	56
	Future conferences	56
	Financial Committee	58
	Financial reconstruction	59
	Counterfeiting of currency	67
	Mixed Greco-Bulgarian Emigration	68
	Central Bank statistics	69
	Double taxation	69
	2. Organization for Communications and Transit	70
	Conferences	71
	Advisory and Technical Committee	71
	Conference of Press Experts	73
	Freedom of transit	76
	Ports and maritime navigation	79
	Inland navigation	83
	Transport by rail	86
	Electric questions	89
	Road traffic	91
	Calendar reform	92
	Adjustment of disputes	95
	The Straits Commission	97
	3. The Health Organization	98
	Composition of Organization	99
	Fight against epidemics	100
	Interchanges of public health officials	104
	Relations with special areas	106
	Standardizing sera	107

PAGE

Malaria Commission 109
Infant mortality 110
Cancer 111
Health insurance 111
Tropical diseases 112
4. Intellectual Cooperation 112
International Institute 116
University relations 117
Science and bibliography 120
Arts and letters 121
Intellectual rights 123
Instruction of youth 125
5. Suppression of Opium Traffic 128
International engagements 129
Far Eastern control 132
Duties of the Committee 133
Production in Persia 135
Administrative control 136
6. Women and Children 136
Traffic in Women 136
Child Welfare Committee 140
Obscene publications 143
7. Refugees and Relief of Distress 145
Greek Refugee Settlement Commission . . . 146
Bulgarian refugees 149
International relief 150
8. Mandates and Backward Peoples 152
Classes 153
Permanent Mandates Commission 156
Operation of the system 160
Slavery convention 162
9. Protection of Minorities 163
Treaty provisions 164
Petitions 165
Disputes arising under guaranties 167
Albanian minority in Greece 169
Moslems (Albanian) in Greece 170
Emigration commissions 171
10. Administration of Territory 172
The Saar Basin 172
Free City of Danzig 174
11. Progressive Codification of International Law . . 179
Unification of Private Law 184

IV. Achievement of Peace and Security 186
1. Reduction of Armament 186
Committees at work 189
Preparation for conference 190
Other decisions 192
Exercise of right of investigation 197
2. Arbitration and Security 201
General Act 202
Mutual assistance and nonaggression 203
Means for war prevention 204
3. Pacific Settlement of Disputes 205
Disputes handled 207

Appendix: List of Meetings 215

NINE YEARS OF THE LEAGUE OF NATIONS, 1920–1928

I. WHAT THE LEAGUE OF NATIONS IS

The establishment of a League of Nations became one of the objectives of the World War. At the time the armistice of November 11, 1918, was concluded, this was accepted by all belligerents and neutrals as one of the essential subjects for the peace negotiations.

The preliminary Peace Conference at its Second Plenary Session on January 25, 1919, passed a resolution declaring that "it is essential to the maintenance of the world settlement . . . that a League of Nations be created" and that "this League should be treated as an integral part of the general treaty of peace." As a consequence, the conference appointed the Commission on the League of Nations under the chairmanship of Woodrow Wilson, President of the United States, which worked out a project in 10 sessions between February 3 and February 13. This project, elaborated by delegates of the United States, British Empire, France, Italy, Japan, Belgium, Brazil, China, Czechoslovakia, Greece, Poland, Portugal, Rumania and Serbia, was published on February 14, 1919, for the consideration of the world. Members of the commission met on March 20 and 21 to consider proposals from the following states which were neutral in the World War: Argentina, Chile, Colombia, Denmark, Netherlands, Norway, Paraguay, Persia, Salvador, Spain, Sweden, Switzerland and Venezuela. In five additional meetings on March 22, 24, 26, April 10 and 11, the Covenant of the League of Nations was completed and on April 28 accepted by a plenary session of the Peace Conference.

The Covenant was incorporated into the treaties of

peace, and is Part I of the treaties with Germany, Austria, Bulgaria and Hungary. On the entrance of the first of these into force, on January 10, 1920, the Covenant acquired the character of a separate treaty. The deposit of ratifications of parties to the treaty of peace brought the Covenant into force on that day, giving legal existence to the League of Nations. As a result of that act, the accessions to the Covenant of Argentina, Chile, Paraguay, Persia and Spain came into force so that the League of Nations entered upon its legal existence on January 10, 1920, at 4.15 P.M., with a membership of 24 states, 19 of which were parties to the treaty of peace: Australia, Belgium, Bolivia, Brazil, British Empire, Canada, Czechoslovakia, France, Guatemala, India, Italy, Japan, New Zealand, Panama, Peru, Poland, Siam, South Africa and Uruguay.

By subsequent accessions and admissions under the terms of the Covenant,[1] it has been accepted by 56 states, of which two, Brazil and Costa Rica, have withdrawn. The latter is reassuming membership and the former, while maintaining its withdrawal, continues to "collaborate."

Engagements under Covenant

The states Members of the League have taken engagements in the Covenant, each for itself and toward the others, "in order to promote international cooperation and to achieve international peace and security," to the following effect:

1. Each Member on admission "shall give effective guaranties of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments" (Art. 1, par. 2).

2. Each Member recognizes "that the maintenance of peace requires (*a*) the reduction of national armaments to the lowest point consistent with national safety and (*b*) the enforcement by common action of international obligations" (Art. 8, par. 1).

[1] See p. 14.

3. Each agrees "that the manufacture by private enterprise of munitions and implements of war is open to grave objections" (Art. 8, par. 5).

4. Each undertakes "to interchange full and frank information as to [*a*] the scale of their armaments, [*b*] their military, naval and air programs, and [*c*] the condition of such of their industries as are adaptable to warlike purposes" (Art. 8, par. 6).

5. Each undertakes "to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League" (Art. 10, par. 1).

6. They declare "a matter of concern to the whole League" "any war or threat of war," with respect to which they "shall take any action that may be deemed wise and effectual to safeguard the peace of nations" (Art. 11, par. 1).

7. They declare it "to be the friendly right" of each . . . "to bring to the attention" of the bodies they set up "any circumstance whatever . . . which threatens to disturb international peace or the good understanding between nations upon which peace depends" (Art. 11, par. 2).

8. They "agree that . . . they will submit . . . any dispute likely to lead to a rupture . . . either to arbitration or judicial settlement or to inquiry" (conciliation) (Art. 12, par. 1).

9. "They agree in no case to resort to war until three months after" the result of such submission is known (Art. 12, par. 1).

10. They "agree that . . . they will submit the whole subject matter to arbitration or judicial settlement" in the case of any dispute which "they recognize to be suitable" for such procedure (Art. 13, par. 1).

11. They "agree that they will carry out in full good faith any award or decision that may be rendered" (Art. 13, par. 4).

12. They agree that they "will not resort to war against a Member of the League which complies" with such award or decision (Art. 13, par. 4).

13. They "agree that they will submit" to the Council for conciliation "any dispute likely to lead to a rupture, which is not submitted to arbitration or judicial settlement" (Art. 15, par. 1).

14. They "agree that they will not go to war with any party to the dispute which complies with the recommendations of the report" of the Council, if this is unanimously agreed to by the Council, exclusive of the disputant states (Art. 15, par. 6).

15. They "reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and

justice," if the Council, exclusive of the disputant states, fails to attain unanimity (Art. 15, par. 7).

16. Should any member disregard agreements Nos. 8 to 14 and resort to war, "it shall *ipso facto* be deemed to have committed an act of war against all other members." They undertake "immediately to subject it to the severance of all trade or financial relations," as well as to insure "the prevention of all financial, commercial or personal intercourse" with it (Art. 16, par. 1).

17. They "agree that they will mutually support one another" in these respects (Art. 16, par. 3).

18. They obligate themselves to register for immediate publication "every treaty or international engagement" with the Secretariat. No such document "shall be binding until so registered" (Art. 18).

19. They grant to the Assembly the faculty of advising them to reconsider "treaties which have become inapplicable" (Art. 19).

20. They grant to the Assembly the faculty of considering "international conditions whose continuance might endanger the peace of the world" (Art. 19).

21. They agree that the "Covenant is accepted as abrogating all" inconsistent obligations. They accept as a duty the procuring "of release from such obligations" (Art. 20).

22. They "solemnly undertake" not to "enter into any engagements inconsistent" with the terms of the Covenant (Art. 20).

23. They establish "the principle that the well-being and development" of "peoples not yet able to stand by themselves under the strenuous conditions of the modern world" are "a sacred trust of civilization." The "tutelage of such peoples" is "intrusted to advanced nations" and "exercised by them as mandatories on behalf of the League" (Art. 22, pars. 1 and 2).

24. They will "endeavor[1] to secure and maintain fair and humane conditions of labor for men, women and children," and "will establish and maintain the necessary international organizations"[2] (Art. 23*a*).

25. They "undertake[1] to secure just treatment of the native inhabitants of territories under their control" (Art. 23*b*).

26. They "intrust[1] the League with the general supervision over the execution of agreements with regard to the traffic in women and children" (Art. 23*c*).

[1] "Subject to and in accordance with the provisions of international conventions, existing or hereafter to be agreed upon."

[2] For the realization of this engagement, see *Industry, Governments and Labor*, World Peace Foundation Pamphlets, Vol. XI, Nos. 4–5.

27. They "intrust[1] the League with the general supervision of the execution of agreements with regard to . . . the traffic in opium and other dangerous drugs" (Art. 23*c*).

28. They "intrust[1] the League with the general supervision of the trade in arms and ammunition" (Art. 23*d*).

29. They "make provision[1] to secure and maintain freedom of communications and transit . . . for the commerce of all" (Art. 23*e*).

30. They "make provision[1] to secure and maintain . . . equitable treatment for the commerce of all" (Art. 23*e*).

31. They "endeavor[1] to take steps in matters of international concern for the prevention and control of disease" (Art. 23*f*).

32. They place "under the direction of the League all international bureaus already established by general treaties," if the parties consent (Art. 24, par. 1).

33. They stipulate that all international bureaus and commissions for the regulation of matters of international interest constituted after January 10, 1920, shall be placed under the direction of the League (Art. 24, par. 1).

34. They "agree to encourage and promote the establishment and cooperation of" authorized voluntary national Red Cross organizations to improve health, prevent disease and mitigate suffering (Art. 25).

The Conference Method of Operation

The League of Nations can best be understood if it is realized that it is not closely comparable with other institutions. It consists of states associating themselves together under specified conditions for the accomplishment of purposes of common interest. These purposes and the standards of action which the Member states have agreed to accept as a basis of their association are those set forth in the Covenant as analyzed above. Some of those engagements address themselves primarily to the individual action of the Member state; the consensus of action of the Members and their experience in working together contribute to a fuller interpretation of these engagements. Other engagements state objectives which Member states

[1] "Subject to and in accordance with the provisions of international conventions, existing or hereafter to be agreed upon."

seek to attain; these become the subject of investigations especially organized within the machinery of the League and are constantly productive of international conferences for developing specific international agreements.

In view of the general standards of conduct adopted by them in the Covenant and the fundamental purposes of the League, Member states have felt free to agree additionally between themselves to leave many matters calculated to promote international cooperation or to achieve a greater degree of peace and security to its organs. Among instances of duties assigned to the League by such independent action of Member states may be cited the treaties, declarations and clauses establishing régimes for the protection of minorities; the financial reconstruction of Austria and Hungary; the Greek Refugee Settlement Scheme; the administration of the Saar Basin, the Free City of Danzig and Upper Silesia. Not infrequently the common objectives sought result in opposite measures. General agreements frequently result in bilateral treaties in which Member states apply the principles determined at Geneva. Instances of such action are a series of sanitary conventions made between the states of Eastern Europe in 1922–23, the convention relating to nonfortification and neutralization of the Aaland Islands, and an extensive series of treaties for the pacific settlement of international disputes.

To comprehend the League of Nations most readily, it is advisable to think of it as an instrument of the Member states for attaining a maximum of agreement on questions which the nations themselves recognize as having a common interest for them. The contracting parties provide in the Covenant that the machinery for conducting their common business shall be an Assembly, consisting of delegates of all Member states, and a Council, consisting of delegates of Member states representative of and acting on behalf of the entire Membership (Arts. 3 and 4). Both the Assembly and Council take their decisions by unanimous vote, unless there is a specific provision to the contrary or the

matter is one of procedure (Art. 5). The persons composing both "render their decisions as the representatives of their respective states, and . . . have no standing except as such representatives." With respect both to the status of persons and the character of the vote, the two organs are, therefore, constructed on the basis of international conferences.

The Secretariat performs secretarial duties for the Assembly and Council and for bodies called into being by their decisions. This organ of the League is analogous to the civil service of a national government in that it serves the League as a whole rather than particular Member states.

In general, the experience of the states Members of the League of Nations since 1920 has indicated that the objectives of the Covenant are broad enough to enable them to seek agreement through it upon any question of common interest.

As questions of diverse character are considered, machinery adapted to securing appropriate results has been created. The Assembly, which meets annually, is not a continuing body, and it consequently devolves upon the Council to manage current business. The Council, usually after consulting the Assembly, has set up a series of advisory committees "for the purpose of facilitating the task of the Assembly and the Council . . . on the one hand, and on the other hand to assist Members of the League by establishing direct contact between their technical representatives in the various spheres, to fulfill their international duties." These committees differ in their composition according to the objects sought. For the most part, committees consist of unofficial experts, diversified as to nationality and professional qualifications. Emphasis is thus given to "enough independence and flexibility to make them effectively useful to the Members of the League." In cases where the fundamental necessity is to develop agreement among Governments or to commit Governments to decisions, the membership of a committee is drawn from official life.

A committee is served by an expert section of the Secretariat, which works under its direction. The committee thus aided collects facts and elaborates conclusions, subject to confirmation by the Council. Nationals of non-Member states, especially the United States, have for several years taken an active part in the work of the committees. Annual reports on the work of each committee are made to the Assembly, which frequently indicates the direction which the Member states as a whole desire to see taken in future work.

Confirmation of the conclusions of a committee by the Assembly may constitute a sufficient international agreement upon a subject.[1] In such a case, the Assembly acts as an international conference, and the representatives of Member states, in addition to their credentials as Assembly delegates, are furnished with full powers for signing or accepting the document in question. More frequently the conclusions of a committee are of a character requiring the convening of a special conference to enable states to conclude an acceptable agreement. States non-Members of the League are invited to such conferences. They differ from conferences not held under League auspices only in respect to the more careful and thorough preparation afforded and the great advantage of being served by a thoroughly trained and continuous Secretariat.

Prevention of War

The conference method described above is followed in handling the bulk of the work done by the League of Nations. Its object is "to promote international cooperation and to achieve international peace and security" by facilitating "the firm establishment of the understandings of international law" as the actual rule of conduct among Governments. It produces a body of agreement which can command the "scrupulous respect for all treaty obli-

[1] Instances are the Statute of the Permanent Court of International Justice, adopted by the First Assembly; the international slavery convention, adopted by the Sixth Assembly; the convention for the execution of arbitral clauses in commercial matters, adopted by the Eighth Assembly; the general act and model conventions on pacific settlement of international disputes, nonaggression and mutual assistance adopted by the Ninth Assembly.

gations in the dealing of organized peoples with one another." These activities are recognized as facilitating "the acceptance of obligations not to resort to war" in that they prescribe through voluntary agreement "open, just and honorable relations between nations," which are calculated to forestall the development of conditions which might encourage resort to war.

Though the 60 international conventions developed by the League of Nations in nine years through the machinery described above are very diverse in character, they all contribute to the promotion of cooperation between the peoples of the world.

Member states of the League of Nations accepted in the Covenant specific undertakings with respect to the reduction of armament and the employment and development of the pacific settlement of international disputes. The reduction of armament in its multiform complications has been handled by the conference system described. The pacific settlement of international disputes, which does away with the occasion for resort to war, has been extensively developed under the influence of the League, while the Covenant itself gives to the Council (and sometimes the Assembly) special authority from the Member states for jurisdiction over international disputes. The activities of the League in this field include matters on which public attention has been widely focused. Questions of great interest and of high importance have come under the jurisdiction of the Council.

Bilateral relations between states Members of the League continue in full measure to be conducted between governments. It is only that portion of the foreign relations of governments which can be satisfactorily handled solely in multilateral negotiations that falls within the scope of the League.

A possible exception to this general rule is recognized by an agreement in the Covenant which provides that "any dispute likely to lead to a rupture" between Members of the League is to be submitted to some form of

pacific settlement. The forms specified are arbitration, judicial settlement and inquiry by the Council. Disputes are normally referred to the League for inquiry by the Council. The method of judicial settlement is provided for in the Permanent Court of International Justice, to which states become parties by the normal process of ratifying a treaty document. The other method of pacific settlement specified is that of arbitration. The functioning of the League has facilitated and encouraged the development of this method of pacific settlement, which is supplemented by conciliation through a commission of inquiry.

As other methods have come into existence, the exclusive importance of inquiry by the Council has decreased. The statutory jurisdiction of the Permanent Court of International Justice had been widened up to June 15, 1928, by the provisions of 250 bilateral and multilateral treaties.[1] The wide variety of international conventions negotiated under the auspices of the League, or otherwise, since 1920 has reformed international practice or solved international problems on a large number of frictional subjects. The conventions accomplishing these ends have uniformly contained a clause providing that any dispute with respect to the interpretation or application of the document shall be left to the decision of the Permanent Court of International Justice. Special jurisdiction has been created for special problems; for instance, in the convention on import and export prohibitions and restrictions, provisions are made for the conciliatory or arbitral settlement of disputes arising from it and specially adapted to the issues involved. Member states have extensively included such clauses in bilateral treaties and have both developed and adjusted methods of pacific settlement to their own needs by the conclusion of bilateral treaties of pacific settlement. The totality of these developments result in reducing the area of international life from which disputes within the cognizance of the League might arise. While the possibility of disputes reaching a stage where they should, under the

[1] Publications of the Permanent Court. *Fourth Annual Report*, p. 79–138, 413 (Series E, No. 4).

Covenant, be submitted to the Council has thus decreased, the Member states retain in full force the provision to refer disputes to the League in case other methods fail to solve such difficulties.

The League and International Relations

The Members of the League have more and more come to view it as a forum for the discussion of their mutual interests and a mechanism for the solution of their mutual problems. The permanence of the Secretariat and the constant functioning of committees under the direction of the Council have provided the framework realizing such objects. The Assembly meets automatically each year on the first Monday in September. The Council meets normally four times each year. In the early days of the League, postwar problems were to the front, and the continuity of League action had much to do with the ability to handle them promptly and systematically. In the realm of agreements of a permanent nature, the early years were characterized by the employment of the machinery for establishing general principles, such as those on freedom of transit. In each avenue of activity, there has been a steady development toward the handling of problems which are highly technical and which touch more intimately the national practice or policy of Member states.

As this situation has developed, it has become the general practice of the states to send foreign ministers to Geneva as representatives on the Council. The delegations to the Assembly in recent years have included 20 to 25 heads of cabinets or ministers of foreign affairs, in addition to other ministers. As a consequence of the presence of such officials at Geneva, meetings of the Assembly and Council since 1924 have sometimes been quite as important because of the negotiations taking place outside of the League organization as for the decisions made at its meetings. Foreign ministers, who could not visit other capitals without arousing speculation, find it possible to discuss in person with ministers from other countries questions of mutual

concern. Such meetings have very often been of world-wide importance and have amounted to special conferences, for example, in 1925, during the Assembly, when some negotiations respecting the subsequent Locarno treaties took place, and again in 1928 when cabinet members of the states interested in reparation and the Rhine occupation reached an agreement respecting procedure on those subjects. The League of Nations has nothing to do with such meetings, but its periodic gatherings simply afford the opportunity for those concerned to meet for discussion. Nevertheless, the existence of the League contributes to the success of such outside negotiations. The value of Geneva as a meeting place is appreciated, because it affords not only neutral ground, but an essentially friendly one. Ministers who might never otherwise meet each other become acquainted with each other in their attendance at League meetings, and the acquaintance enables them to dispatch their special business. Two ministers sitting at the same table in the morning on international business find themselves in a hotel room in the afternoon discussing national business. During the afternoon both of them may be aware that in the morning they will have the duty of preparing a League report together. The habit of international cooperation in the League, they testify, facilitates better understanding of their national problems.

The first week or ten days of the Assembly sessions are devoted to a general debate on the report on the work of the Council and of the Secretariat and on the measures taken to execute decisions of the Assembly. Each country has a free opportunity to discuss any questions which it wishes. With some 300 press representatives in the gallery, the Assembly hall acts as a sounding board to all the world. Delegates of Members make use of this fact to explain satisfactory or unsatisfactory positions in which they find themselves, to define their attitude toward international action, to defend their national action or to complain of conditions which they deem reparable. This is a new factor in international relations.

II. ORGANS OF THE LEAGUE

1. Members of the League

The contracting states are defined in the Covenant as Members of the League of Nations.

Members of the League are "original" or "admitted."

Original Members are named in an annex to the Covenant in two groups. The first group acquired membership by ratification of the treaties of peace, in which the text of the Covenant appears. This first group were signatories "of the first part" of the treaties of peace. The second group, consisting of neutrals in the World War which were not parties to the treaties of peace, acceded to the Covenant as a separate document, without reservations.[1]

Admitted Members consist of any other "fully self-governing state, dominion or colony" whose "admission is agreed to by two-thirds of the Assembly." An admitted member "shall give effective guaranties of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments."

Growth. The League of Nations formally came into being by the official deposit of the ratifications of the treaty of Versailles at the French Foreign Office, at Paris, on January 10, 1920, at 4.15 P.M. By that deposit 24 states [2] became the first members of the League of Nations.

Within the next two months 42 of the states named in the Annex to the Covenant had become original Members of the League. The signatories of a treaty of peace acquired that status by ratification in accordance with constitutional practices. Those which were not signatories of

[1] For some details of ratifications, see *Three Months of the League of Nations*, p. 7–10 (this Series, III, Nos. 1–2). The recognition of Switzerland's perpetual neutrality by resolution of the Council dated February 13, 1920, is not regarded as a reservation.

[2] See p. 2.

such a treaty acceded to the Covenant as a separate instrument after the parliamentary adoption of an act authorizing such accession.

States admitted to the League by vote of the Assembly have based their applications upon parliamentary or governmental action, having the effect of a conditional ratification of the Covenant previous to action by the Assembly.

MEMBERS OF THE LEAGUE OF NATIONS, JANUARY 1, 1929 — 54

State	Member from	State	Member from
ABYSSINIA	Sept. 28, 1923	DOMINICAN REPUBLIC	Sept. 29, 1924
ALBANIA	Dec. 17, 1920	ESTONIA	Sept. 22, 1921
ARGENTINA	Jan. 10, 1920	FINLAND	Dec. 16, 1920
AUSTRALIA	Jan. 10, 1920	FRANCE	Jan. 10, 1920
AUSTRIA	Dec. 15, 1920	GERMANY	Sept. 8, 1926
BELGIUM	Jan. 10, 1920	GREECE	March 30, 1920
BOLIVIA	Jan. 10, 1920	GUATEMALA	Jan. 10, 1920
[BRAZIL [1]	Jan. 10, 1920–June 13, 1928]	HAITI	June 30, 1920
BRITISH EMPIRE	Jan. 10, 1920	HONDURAS	Nov. 3, 1920
BULGARIA	Dec. 16, 1920	HUNGARY	Sept. 18, 1922
CANADA	Jan. 10, 1920	INDIA	Jan. 10, 1920
CHILE	Jan. 10, 1920	IRISH FREE STATE	Sept. 10, 1923
CHINA	July 16, 1920	ITALY	Jan. 10, 1920
COLOMBIA	Feb. 16, 1920	JAPAN	Jan. 10, 1920
[COSTA RICA [2]	Dec. 16, 1920–Dec. 31, 1926]	LATVIA	Sept. 22, 1921
		LIBERIA	June 30, 1920
CUBA	March 8, 1920	LITHUANIA	Sept. 22, 1921
CZECHOSLOVAKIA	Jan. 10, 1920	LUXEMBURG	Dec. 16, 1920
DENMARK	March 8, 1920	NETHERLANDS	March 9, 1920

[1] Notice of withdrawal effective June 13, 1928, in accordance with telegram received June 12, 1926 (*Monthly Summary*, V, p. 135). A note from the Brazilian Government of April 9, 1928, said: "I beg . . . the Council to consider my country one of the most devoted collaborators of the League of Nations." Collaboration was "not only by occupying a seat in the Assembly or in the Council," but by recognizing the League's "service to civilization and to humanity," by joining "in the conferences through which the League of Nations strives for universal welfare by working out problems of general interest" and by preaching and practicing "the true policy of preserving peace . . . by the employment of juridical solutions, by their disinterestedness, by their amity and by their spirit of justice and concord." (*Official Journal*, IX, p. 778.)

[2] The acting president of the Council received a telegram from the Government of Costa Rica stating that on September 6, 1928, the council of ministers had agreed "to submit the matter [of resuming membership] to the Constitutional Congress, requesting it to vote the necessary funds for the payment of the contribution involved." (*Records of the Ninth Assembly, Plenary Sessions*, 16th plenary meeting). Correspondence respecting the Monroe doctrine had preceded on July 18 and September 1.

State	Member from	State	Member from
New Zealand	Jan. 10, 1920	Salvador	March 10, 1920
Nicaragua	Nov. 3, 1920	Serb-Croat-Slovene State	Feb. 10, 1920
Norway	March 7, 1920	Siam	Jan. 10, 1920
Panama	Jan. 10, 1920	South Africa	Jan. 10, 1920
Paraguay	Jan. 10, 1920	Spain [1]	Jan. 10, 1920
Persia	Jan. 10, 1920	Sweden	March 9, 1920
Peru	Jan. 10, 1920	Switzerland	March 8, 1920
Poland	Jan. 10, 1920	Uruguay	Jan. 10, 1920
Portugal	April 8, 1920	Venezuela	March 3, 1920
Rumania	Sept. 14, 1920		

Argentina's participation in the League has been an executive matter. Approval of the Covenant by the Congress had not taken place when the Government sent a delegation to the First Assembly. After several years' absence, the Government paid its back financial quota and has since participated generally in the work of the League.

Costa Rica was admitted to the League by vote of the Assembly on December 16, 1920. Its financial quotas were in arrears in 1924, when the Fifth Assembly passed a resolution inviting the Secretary-General to make "further urgent representations to Costa Rica." On December 24, 1924, Costa Rica paid all contributions due and announced an intention to withdraw, effective December 31, 1926. On March 9, 1928, the Council authorized its acting president to invite Costa Rica to reverse its decision. On July 19, 1928, the Costa Rican Government replied responsively. However, it stated that "under Art. 21 of the Covenant, the international legal scope of the Monroe doctrine was extended." It desired, before acting on the invitation, "to know the interpretation placed by the League of Nations on the Monroe doctrine and the scope given to that doctrine when it was included in Art. 21 of the Covenant." The Council in reply on September 1

[1] Responsive to an invitation of the Council of March 9, 1928, the Spanish Government on March 22, 1928, decided not to withdraw from the League in accordance with its notice of September 11, 1926 (*Official Journal*, VII, p. 1528). The Government in the note announcing its decision said: "We leave it to the Assembly to decide the form which Spain's cooperation should take and the position due to her in order that her rôle may be effectual and valuable and in consonance with her special situation as a great Power, which was neutral during the last war, and with her great past, as the creator of nations and civilizations." (*Official Journal*, IX, p. 603.)

24 1063

cited Art. 20, by which the Members of the League agree to abrogate all understandings between themselves which are inconsistent with the terms of the Covenant. The reference to the Monroe doctrine cited in Art. 21 "neither weakens nor limits any of the safeguards provided in the Covenant," and it can not have the effect of giving them a "sanction or validity" not previously possessed. It "confines itself to referring to these engagements, such as they may exist, without attempting to define them," for definition would be "liable to have the effect of restricting or enlarging their sphere of application." On September 6, the Costa Rican Government telegraphed that the Council of Ministers had decided to submit the invitation to resume Membership of the League "to the constitutional congress, requesting it to vote the necessary funds for the payment of the contribution involved."

Germany in 1919 requested admission to the League, which was refused by the Allied and Associated Governments which were then in *de facto* control.[1] "The political situation as it developed after the coming into force of the treaty of Versailles" prevented Germany from making a further proposal. The situation was changed by the London conference on reparation in August, 1924. A German council of ministers on September 23, 1924, unanimously decided to seek an early entrance into the League. On September 29, Germany addressed to the Government of each Member of the Council a memorandum in which it requested to know its attitude respecting a German application for membership. This memorandum emphasized:

1. "Germany must possess the certainty that immediately upon her admission she will obtain a permanent seat on the Council;"
2. "So long as the present inequality in armaments continues to exist, Germany — unlike other Members of the League — will not be in a position to take part in any coercive measures which may be undertaken by virtue of Art. 16;"

[1] For correspondence exchanged at that time see Sen. Doc. 149, 66th Cong., 1st sess., p. 14–30.

3. "The German Government is prepared to confirm by a formal declaration its sincere intentions to observe its international obligations;"

4. Germany expects that in due time she "will be given an active share in the working of the mandate system."

Full approval having been given to the German decision in the replies from the states represented on the Council, Germany formally brought the matter to the attention of the Council in a note of December 12, 1924.[1] On March 14, 1925,[2] the Council replied. Respecting Council membership, the Council noted that all Governments were "in complete agreement." With regard to the condition respecting Art. 16, the Council pointed out that "it would be for Germany itself to say to what extent she was in a position to reply to the recommendations of the Council," in which she "would always have a voice in deciding the application of the principles of the Covenant."

The German Reichstag on November 30, 1925, authorized the Government "to take the steps necessary for the entrance of Germany into the League of Nations." This authorization was incorporated into the law approving the Locarno treaties. On February 8, 1926,[3] Germany formally applied for admission to the League. Attached to the application was a copy of the joint note of the Locarno states respecting Art. 16 of the Covenant. In this note, Germany was informed that the obligations on Members of the League "must be understood to mean that each state Member of the League is bound to cooperate loyally and effectively in support of the Covenant and in resistance to any active aggression to an extent that is compatible with its military situation and takes its geographical position into account."

Following receipt of the German application, the Council convened an extraordinary session of the Assembly for

[1] *Official Journal*, VI, p. 323. The German memorandum is appended.

[2] *Ibid.*, VI, p. 490.

[3] *Records of the Special Assembly*, p. 45.

March 8, 1926. The Assembly was informed [1] that the question of the status of the military, naval and air forces of Germany was regulated by the treaty of Versailles of June 28, 1919, and did not require to be examined, and that the Secretariat had been advised by the Conference of Ambassadors that to the best of its knowledge, Germany was giving effective guaranties of her sincere intention to discharge her obligations under that treaty and the instruments connected therewith. The First Committee accordingly submitted to the Assembly a unanimous report in favor of Germany's admission to the League.

At its closing meeting on March 17, the Assembly was officially notified of difficulties which had arisen in the Council with regard to the granting of a permanent seat to Germany.

The difficulties were in no wise due to Germany, which it had always been contemplated was to become a permanent member of the Council on its admission. They were due to claims preferred for representation on the Council by Brazil brought forward as a condition of accepting Germany as a permanent Council member. Since the Council was thus unable to agree unanimously upon admitting Germany alone as a permanent member of the Council and she was unwilling to be admitted to the League without that condition, the proceedings took the form of explanations,[2] closing with a resolution intended to prepare for the dissolution of the *impasse*.[3]

The unanimous report in favor of Germany's admission made by the First Committee of the Special Assembly was submitted to the Seventh Assembly in September, 1926. A vote was taken by roll-call, as a result of which the admission of Germany into the League of Nations was unanimously approved on September 8, 1926, by the 48 states participating in the vote.[4] On September 10, the

[1] For full text and accompanying documents, see *Records of the Special Assembly, Official Journal*, Spec. Sup. No. 42, p. 46.

[2] *Records of the Special Assembly*, p. 25, 29 for the Brazilian statement

[3] *Ibid.*, p. 32.

[4] *Records of the Seventh Assembly, Plenary Meetings*, p. 31.

German delegation took its seat in the Assembly. After the president, M. Ninchich, had welcomed them, M. Stresemann, the head of the delegation and German minister of foreign affairs, made a speech which was replied to by the first French delegate, M. Briand.[1] These speeches were remarkable both for their eloquence and friendly tone and made a deep impression as the beginning of a real Franco-German policy of cooperation.

Delegates to the League of Nations

The existence of the League of Nations results in an almost continuous series of conferences and committee meetings at which Member and even nonmember states find it advantageous to have representatives. As a consequence, many states, especially those geographically distant from Geneva, have found it beneficial for the conduct of their international relations to make regular provision for representation at Geneva.

The following states have permanent representatives accredited to the League of Nations:

Abyssinia
Albania
Argentine Republic
Australia
Austria
Bulgaria
Canada
Chile
China
Cuba
Czechoslovakia
Denmark
Dominican Republic
Estonia
Finland
Germany
Greece
Guatemala
Hungary
India
Irish Free State
Japan
Latvia
Liberia
Lithuania
Netherlands
Nicaragua
Paraguay
Persia
Poland
Portugal
Rumania
Serb-Croat-Slovene State
Siam
Sweden
Venezuela

With respect to the United States:[2] "The correspondence with the League is carried on by the American legation at Bern. Information on the activities of the League in

[1] *Records of the Seventh Assembly, Plenary Meetings*, p. 51.

[2] Frank B. Kellogg. *Foreign Relations*, p. 13 (Republican National Committee, Bulletin No. 5, 1928).

which this Government is not directly represented is obtained through the consulate in Geneva."

Many states Members have reorganized their foreign offices so as to provide for a League of Nations section in the ministry with the special duty of conducting necessary business with Geneva. Those with such sections are:

Austria
Belgium
Cuba
Denmark
Estonia
Finland
France
Germany
Great Britian
Italy
Japan
Lithuania
Luxemburg
Netherlands
Persia
Peru
Salvador
Spain
Sweden
Switzerland
Uruguay
Venezuela

States not Members — 9

The states listed below would seem to be eligible for admission to the League of Nations according to the customary concepts of international law.

Afghanistan
Brazil
Ecuador
Egypt
Mexico
Nejd, Sultanate of
Turkey
Union of Socialist Soviet Republics
United States

All these states participate in specific conferences or committees of the League and frequently respond to invitations [1] to accede to its international conventions.

There are sundry territorial entities which do not exercise normal international attributes by reason of their size, paucity of international relations or relationship with other states. Liechtenstein, Monaco and San Marino applied for admission to membership in 1920. The Second Assembly adopted a report from its First Committee that definite conditions should not be laid down in connection with small states until further experience was gained.[2]

[1] For typical invitation see *Official Journal*, VI, p. 489.

[2] *Records of Second Assembly, Plenary Meetings*, p. 820.

These three, Andorra, Iceland — in special relations with Denmark — and the Sudan have been invited to accede to conventions.

2. Organs

"Action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat" (*Covenant*, Art. 2).

The Assembly

Organization. "The Assembly shall consist of representatives of the Members of the League." It meets annually at Geneva on the first Monday in September. It "may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world. At meetings of the Assembly each Member of the League shall have one vote, and may have not more than three Representatives" (*Covenant*, Art. 3).

A report adopted by the First Assembly on December 7, 1920, stated that "it is impossible to consider the Assembly as a chamber of deputies" or as invested "with the legislative power." [1] It is best thought of as a gathering of plenary state delegates. "Under the Covenant, representatives sitting on the . . . Assembly render their decisions as the representatives of their respective states, and in rendering such decisions they have no standing except as such representatives." [2]

Functions. The Assembly has certain duties peculiar to it under the Covenant. Among these are:

Admission of new Member states, of which 14 have been favorably acted upon by a two-thirds vote.

Election of nonpermanent Member states represented on the Council, an annually recurring duty. The elections take place by secret ballot and by majority vote.

Approval of additional Members represented on the Council. One permanent additional Member of the Council was approved in 1926. Two additional nonper-

[1] *Records of the First Assembly, Plenary Meetings*, p. 318.
[2] *Ibid.*, p. 320.

manent Members of the Council were approved by the Assembly of 1923 and three in 1926.

Approval of the Council's nomination of a Secretary-General, a duty not yet exercised.

Joint election with the Council of judges of the Permanent Court of International Justice.

The agenda of an Assembly always includes:[1]

"A report on the work of the Council since the last session of the Assembly, on the work of the Secretariat, and on the measures taken to execute the decisions of the Assembly," on which there is extended debate;

"Items . . . ordered . . . by the Assembly at a previous session, items proposed by the Council and items proposed by any Member of the League;

"The budget for the next fiscal period and the report on the accounts of the last fiscal period."

Some questions "require the concurrence and action of the Governments concerned in the form of international conventions." On these it can not engage "the responsibility of the Governments represented at the Assembly, which is external to the Assembly," and its action takes "the form of a recommendation or invitation leading up to agreement between the Governments."[2] Thus the Assembly negotiated and referred to Governments for signature and ratification the Protocol of Signature covering the Statute of the Permanent Court of International Justice (1920), Rules for establishing Conciliation Commissions (1922), Protocol for Pacific Settlement of International Disputes (1924), Slavery Convention (1926), Convention on Execution of Arbitral Awards (1927), Model Conventions and General Act on Pacific Settlement of International Disputes, Mutual Assistance and Nonaggression (1928). So far as such documents are signed at Geneva by delegates to the Assembly, the delegates act by virtue of credentials issued by their Governments for that specific purpose.

[1] *Rules of Procedure of the Assembly* (C. 356 (1). M. 158 (1). 1923. V), Rule 4.

[2] *Records of the First Assembly, Plenary Meetings*, p. 320.

Procedure. A session of the Assembly is opened by the current president of the Council, after whose address a president is elected. Six vice-presidents are elected; the chairmen of the six main committees also ranking as vice-presidents.

The work is distributed among six committees consisting of one representative of each Member state. Since the Third Assembly these have been:[1]

No. 1. Legal and Constitutional Questions;
No. 2. Technical Organizations of the League;
No. 3. Reduction of Armaments;
No. 4. Budget and Financial Questions;
No. 5. Social and General Questions;
No. 6. Political Questions.

Each Assembly appoints three other committees. The Credentials Committee passes upon the membership of the Assembly. The Agenda Committee decides on the disposition of proposals made in the course of the session. As this duty is a delicate one, great care is taken to have on the committee representatives of states which will fully reflect the general opinion of the Assembly. The General Committee consisting of the president, vice-presidents and the chairman of the Agenda Committee, manages the Assembly, determining the time and business of plenary meetings, etc.

The debate on the *Report on the Work of the Council* lasts from six to ten plenary sessions with from 20 to 30 Member states represented among the speakers. The debate is not only a review of work but a forum in which world events are discussed, affording an opportunity to appraise recent action and to develop new activities.

[1] The Assembly has also had committees dealing with:
General organization (First Assembly);
Secretariat (First Assembly);
Permanent Court of International Justice (First Assembly);
Admission of new members (First Assembly);
Economic weapon or blockade (First and Second Assemblies);
Mandates (First Assembly).
These questions are now handled by the general committees above.

The six main committees examine all matters of the agenda, frequently assuming the character of international conferences by the production of declarations of policy or agreements for formal acceptance by the Member states.

The results of the committee deliberations are brought before the plenary meetings in reports, the conclusions of which are adopted as resolutions by unanimous vote. The Assembly as the organ in which all Member states are actively represented is well adapted to map out the program of the coming year and to give indications to the Council and Secretariat on what matters the Members desire results to be sought.

The Council

Organization. The Council consists of one representative each of

1. *Permanent Members:* The British Empire, France, Germany (since 1926), Italy, Japan (and the United States, if it elects to sit), all "deemed to be directly affected by all matters within the sphere of action of the League." [1]

2. *Nonpermanent Members:* Nine since 1926, six from 1923 to 1926,[2] originally four from 1920 to 1922, being states selected by the Assembly as representative of countries of limited interests.

3. *Temporary Members:* "Any Member of the League not represented on the Council shall be invited to send a representative to sit as a Member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League" (*Covenant*, Art. 4, par. 5).

The Council acts on behalf of the Members of the League as a whole, not solely on behalf of those whose representatives compose it.

[1] Art. 3 of draft Covenant, Annex 1 to Minutes of the first session of the Commission on the League of Nations, David Hunter Miller, *The Drafting of the Covenant*, II, p. 232.

[2] *Official Journal*, III, p. 1197, 1198, 1415.

"It is impossible to consider . . . the Council as an upper chamber" or "as invested with the executive" power.[1]

"Under the Covenant representatives sitting on the Council. . . render their decisions as the representatives of their respective states and in rendering such decisions they have no standing except as such representatives." [2]

Functions. "The Council may deal . . . with any matter within the sphere of action of the League or affecting the peace of the world" (*Covenant*, Art. 4, par. 4).

The Council has certain powers and duties peculiar to it under the Covenant. Among these are:

Naming, with the approval of the majority of the Assembly, of "additional Members of the League whose representatives shall always be members of the Council," a right which was exercised in 1926 with respect to Germany.

The increase, with the approval of the majority of the Assembly, "of the number of Members of the League to be selected by the Assembly for representation on the Council." This right was exercised in 1922 when the nonpermanent Members of the Council were increased from four to six and in 1926 from six to nine.

Approval of appointments made by the Secretary-General.

It shall formulate plans for the reduction of armament and must give its consent to armament exceeding those limitations.

It shall advise as to the evil effects attendant upon the manufacture of arms by private enterprise.

It shall advise in case of aggression.

It may act as a council of mediation or of conciliation (inquiry).

It must make recommendations to the Governments as to contributions to armed forces to be used to protect the covenants of the League.

Its consent is required for the cooperation of the Secretariat with international bureaus and commissions.

[1] *Records of the First Assembly, Plenary Meetings*, p. 318.

[2] *Resolutions adopted by the First Assembly*, 1920, p. 10.

It appoints committees and commissioners, with the exception of the Permanent Military, Naval and Air Commission and the Technical and Advisory Committee on Communications in Transit. The former is made up of Government representatives and the composition of the latter is determined by the General Conference on Communications and Transit.

It supervises the "sacred trust of civilization" embodied in the system of mandated territories.

It prepares a draft budget for submission to the Assembly.

It receives reports from committees and commissioners and gives their conclusions effect by adopting them as resolutions.

Among the wide variety of duties "affecting the peace of the world" falling to the Council under treaties are:

Joint election (with the Assembly) of judges of the Permanent Court of International Justice.

The protection of racial, religious and linguistic minorities.

The Saar Basin administration.

Control of armament in Germany, Austria, Bulgaria, Hungary.

The Straits Commission annual reports.

Disputes referred to it under many treaties.

Procedure. The Council held 53 sessions from 1920 to 1928 and handled 2,400 items of business. The agenda is prepared by the Secretariat from recommendations of Member states.

The president of the Council is the representative of a Member whose turn has arrived in rotation according to the alphabetical order of the states represented. He acts until the succeeding session.

Meetings are invariably public, the only regular exception being for the discussion of appointments. Full proceedings are published.

Decisions are unanimous, usually without a record vote. All matters of procedure, which include decisions taken in virtue of the Rules of Procedure, are determined by ma-

jority vote of the Members of the League represented and voting at the meeting.[1]

Representatives of Members of the League attend sessions with full powers authorizing them to bind their Governments in case a decision takes the form of an international instrument.

The Council on August 31, 1923, decided that it should hold regular meetings on the Monday immediately preceding December 10, March 10 and June 10 and that the fourth session should begin three days before the meeting of the Assembly. Extra sessions may be held if necessary. Since 1926 the August–September meeting has split into two sessions, the Council reorganizing after the election of the nonpermanent Members by the Assembly. In March, 1927, the British representative raised the question of reducing the annual number of sessions from four to three to facilitate the attendance of foreign ministers as representatives. Reports and discussions are under consideration by Member states and a decision is expected after the 1929 Assembly.[2]

Rapporteurs. The rules of procedure provide that questions should be examined and reported upon by the representatives of Members neutral to the subject matter. On February 2, 1923, the experience of the previous three years was consolidated into a list of subjects and rapporteurs. With a change in the composition of the Council in 1926, annual revision, in view of the changes in states represented on the Council, has since been required. On September 19, 1928, the following list of rapporteurs for 1928–29 was approved at the 52nd session of the Council:

1. Financial questions	Cuba
2. Economic questions	Germany
3. Transit Committee	Poland
4. Health	Spain
5. International law	Italy
6. Finances of the League of Nations	Persia
7. International bureaus	Venezuela

[1] *Rules of Procedure of the Council*, May 17, 1920, *Official Journal* I, p. 272.

[2] *Official Journal*, VIII, p. 819, 743; IX, p. 141, 173.

8.	Mandates	Finland
9.	Minorities	Japan
10.	Armaments	Rumania
11.	Saar	Italy
12.	Danzig	Chile
13.	Intellectual Cooperation	France
14.	Opium	Canada
15.	Traffic in Women and Children	Great Britain
16.	Humanitarian questions	Venezuela
17.	Child Welfare	Canada

Nonpermanent Members. The term of office of the Council with respect to nonpermanent Members was fixed by Assembly resolution of December 11, 1920, as running from January 1. Rules adopted by the Assembly on September 15, 1926, provide that nonpermanent Members shall take office immediately on election in September. The year of the Council, from 1920 to 1926 therefore, was on the calendar; periods since then have been: September 16, 1926–September 15, 1927; September 15, 1927–September 10, 1928; September 10, 1928–September, 1929.

The states which have served are as follows, the asterisk indicating the nine current members:

Belgium (1920–27)
Brazil (1920–26)
*Canada (1927–30)
*Chile (1926–29)
China (1921–23, 1926–28)
Colombia (1926–28)
*Cuba (1927–30)
Czechoslovakia (1924–27)
*Finland (1927–30)
Greece (1920)
Netherlands (1926–28)
*Persia (1928–31)
*Poland (1926–29) [1]
*Rumania (1926–29)
Salvador (1926–27)
*Spain (1920–26, 1928–31) [1]
Sweden (1923–26)
Uruguay (1923–26)
*Venezuela (1928–31)

The first four nonpermanent Members of the Council were designated in the Covenant. They were intended to be one less than the permanent Members, but the Council's need for disinterested rapporteurs, the amount of

[1] Also reeligible for further term of three years.

work, and the desire of Member states to participate caused an increase to six in 1922. At the Council meeting, in March, 1926, held simultaneously with the Special Assembly, and in that Assembly, the claims of Brazil and Spain to permanent Council seats along with Germany — obviously a state with "general interests" — led to a reexamination of the whole problem of selecting nonpermanent Members of the Council adequately representative of the entire League membership.

In 1920 doubt had been expressed in the First Assembly as to its competence under the Covenant to decide that problem in a fundamental manner. The doubt was corrected by an amendment to Art. 4, par. 2, of the Covenant. Pending its sufficient ratification the problem lay in abeyance. Spain, wishing to retain a nonpermanent seat, had not signed the protocol of amendment, so that the amendment could not become effective. The sharp attention drawn to this condition by the failure of the Special Assembly to accomplish the admission of Germany, concentrated attention upon establishing membership in the Council on a firm basis. A Committee on the Composition of the Council of 15 representatives of Member states was appointed by the Council on March 18, 1926.[1] The pressure of general opinion led Spain to ratify the amendment, which entered into force on July 29, 1926.[2] The committee in its later studies and the Seventh Assembly were therefore able to consider the problem under the following stipulations of the Covenant:

Art. 4. 2. With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council.

2 *bis*. The Assembly shall fix by a two-thirds majority the rules dealing with the election of the nonpermanent members of the Council, and particularly such regulations as relate to their term of office and the conditions of reeligibility.

[1] *Official Journal*, VII, p. 533.

[2] *Ibid.*, p. 870.

The problem which the Assembly was now free to solve was very complicated. The Assemblies of 1922–25 had reiterated that it was desirable for the Assembly to choose nonpermanent Members of the Council "with due consideration for the main geographical divisions of the world, the great ethnical groups, the different religious traditions, the various types of civilization and the chief sources of wealth." The Sixth Assembly had declared for "application of the principal of rotation." Brazil, China, Poland, Spain and perhaps other states had developed at the Special Assembly ambitions to be permanent Members. They raised the thorny question of how many states can in fact legitimately claim that all matters coming before the Council directly or specially affect their interests. In addition, the number of Council Members had to be limited to preserve its essential character as a body taking decisions. A permanent place was reserved for the United States under the Covenant and another was earmarked for the Soviet Union.

The Committee on the Composition of the Council sought the answer to the problem. It ended its second session September 3, 1926, and the next day the Council approved its report and passed a resolution to carry out its provisions so far as that body was concerned, by appointing Germany a permanent Member and increasing to nine the nonpermanent members. The Assembly submitted the report to some revision in its First Committee and on September 15 adopted its conclusions as a set of rules. The essentials of these read:[1]

Article I. The Assembly shall each year, in the course of its ordinary session, elect three nonpermanent members of the Council. They shall be elected for a term commencing immediately on their election and ending on the day of the elections held three years later by the Assembly. . . .

Art. II. A retiring member may not be reelected during the period between the expiration of its term of office and the third election in ordinary session held thereafter unless the Assembly, either on the

[1] *Resolutions and Recommendations of the Assembly . . .* 1926 (*Official Journal*, Spec. Sup. No. 43) p. 9–10.

expiration of the member's term of office or in the course of the said period of three years, shall, by a majority of two-thirds of the votes cast, previously have decided that such member is reeligible.[1] . . .

The Assembly may not decide upon the reeligibility of a member except upon a request in writing made by the member itself. . . .

The number of members reelected in consequence of having been previously declared reeligible shall be restricted so as to prevent the Council from containing at the same time more than three members thus elected. . . .

Art. III. Notwithstanding the above provisions, the Assembly may at any time by a two-thirds majority decide to proceed, in application of Art. 4 of the Covenant, to a new election of all the non-permanent members of the Council. In this case the Assembly shall determine the rules applicable to the new election.

Temporary Members. By Art. 4, par. 5, of the Covenant any Member of the League not represented on the Council is entitled to representation as a Member during consideration of matters specially affecting its interests. The same principle is applied to non-Members of the League. Organizations both of League and non-League origin have official representatives at sessions dealing with matters concerning them and participate in the proceedings. By virtue of these practices the participation of non-Council Members may equal in number that of Council Members. In 15 sessions in 1925-27 a total of 120 states and 58 committees participated. A state's representative so attending sits and votes as a Member. The extra-Council attendance at the 37th session in December, 1925, for instance was:

Albania, Austria, Bulgaria, Danzig, Denmark, Greece, Hungary, Netherlands, Persia, Poland, Rumania, Serb-Croat-Slovene State and Turkey. The Commission of Inquiry on Bulgaro-Greek Affairs, the Assistant High Commissioner for Hungary, the Commissioner-General for Austria, the Committee of Control of the Austrian Loan, the Permanent Mandates Commission, the High Commissioner for Danzig, the Commissioner on the Iraqi-

[1] Poland was voted reeligible in 1926 and Spain, by special extension of the right to apply, in 1928. Belgium was denied reeligibility in 1927 and China in 1928.

Turkish Frontier and the Mixed Commission on the Greco-Turkish Exchange of Populations were also represented or present.

The Secretariat

Functions. "The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required" (*Covenant*, Art. 6).

"All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

"Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

"The buildings and other property occupied by the League or its officials or by representatives attending its meetings shall be inviolable" (*Covenant*, Art. 7).

"The members of the Secretariat act, during their period of office, in an international capacity, and are not in any way representatives of their own country." [1]

By Art. 18 of the Covenant the Secretariat shall publish as soon as possible every treaty or international engagement registered with it.

The Secretary-General appoints the personnel with the approval of the Council. He acts as secretary-general at all meetings of the Assembly and Council.

The Secretary-General shall summon a meeting of the Council under Art. 11, par. 1, of the Covenant.

Organization. The Secretariat comprises the Secretary-General, Sir Eric Drummond, and about 475 men and women of some 40 nationalities. Appointments are made by the Secretary-General, with the approval of the Council. However, the Secretary-General has established Staff Regulations which in large measure control nominations for appointment.

[1] Memorandum of Secretary-General to Fifth Session of the Council, May 19, 1920, *Procès-verbal of the 5th Session*, p. 219.

The Secretariat includes a Deputy Secretary-General (French) and three Under Secretaries-General (German, Italian and Japanese), who have charge respectively of Internal Administration and, as directors, of the Section of International Bureaus and Intellectual Cooperation, and of the Political Section. Included in the General Organization are the Information Section and its Liaison Offices in Paris, Rome, Budapest, The Hague, Tokyo and Turkey, the Legal Section (which acts as counsel to all League organs and deals with all matters concerning the registration of treaties), and the Treasurer's Office.

The Special Organizations of the League are served by the following Sections of the Secretariat: Administrative Commissions and Minorities Questions, Economic and Financial, Mandates, Transit, Health, Social Questions and Opium Traffic, Disarmament, Intellectual Cooperation.

The Internal Administrative Services comprise the Personnel Office, Précis-Writing Department, Printing and Publications Department, Drafting Committee, Interpreters and Translators, Library, Registry and Indexing of Publications Service, Internal Control Office, Internal Services, Stationery, Supplies and General Contracts, Stenographers' Branch, Distribution of Documents, Miscellaneous Services and House Staff.

The complete Staff List was published annually in No. 1 of the *Official Journal* until it was decided in 1928 to print it in No. 11 of each year.

The Eighth Assembly on September 26, 1927, adopted a statute establishing, until the Assembly of 1931, an administrative tribunal in order to provide a forum for disputes arising from staff contracts, and particularly to remove that administrative detail from the shoulders of the chiefs of League organizations. The tribunal consists of three judges and three deputy-judges, all of different nationalities, and their judgments, which are final and without appeal, are to be taken by a majority vote, with the reasons therefor stated. The tribunal is competent for any disputes concerning compensation under the Staff Regu-

lations. The tribunal was organized as of January 1, 1928.[1]

Character. Some permanent appointments to the original Secretariat were for seven years under contract and expired with the year 1926 or early in 1927. The Council on May 19, 1920, approved the provisional appointments of the Secretary-General made under the authority of the Organization committee for a period of five years.[2] Reappointments may be made.

A Committee of Experts was appointed to study the many problems connected with the Secretariat in accordance with an Assembly resolution of December 17, 1920. A report based on its studies was adopted by the Assembly on October 1, 1921,[3] in which definite rules of tenure were laid down. On this basis the higher officials through the directors of sections hold office for a maximum period of seven years, reappointments being in the nature of exceptions to the rule.

Members of sections and officers of equivalent grade receive permanent appointments divided into Classes A and B, the requirements being "high educational qualifications and . . . very considerable capacity and qualities of initiative and resource." Permanent service is for a period of 21 years, with an age limit of 55. The 21 years consists of three periods of seven years each. The subordinate staff (Class C), shorthand typists, etc., have a tenure of 28 years, divided into four periods. Staff of lower grade has no fixed tenure. Promotion occurs throughout the whole Secretariat.

At the Ninth Assembly there was expressed the fear that the Secretariat was undergoing a change for the worse and that the principles laid down in the Balfour memorandum of May 19, 1920,[4] were not being fully realized. Certain states were not yet "represented" in the Secretariat; nationals of a certain group filled too large a number of posts; there was a growing tendency for the higher officials

[1] *Official Journal*, IX, p. 172.

[2] *Procès-verbal of the Fifth Session*, p. 37, 237.

[3] *Records of the Second Assembly, Plenary Meetings*, p. 594, 600.

[4] *Official Journal*, I, p. 136.

to be members of the diplomatic service of their respective countries, and certain states laid a permanent claim to high posts. The matter was debated in the Fourth Committee.

The Assembly adopted a resolution indorsing the principles concerning the staff of the Secretariat contained in the report adopted by the Council on May 19, 1920. "In the words of this report, the Secretary General, in making appointments to posts on the Secretariat, 'had primarily to secure the best available men and women for the particular duties which had to be performed. But in doing so, it was necessary to have regard to the great importance of selecting officials from various nations. Evidently no one nation or group of nations ought to have a monopoly in providing the material for this international institution.' Lord Balfour emphasized the word 'international' because the members of the Secretariat, once appointed are no longer the servants of the country of which they are citizens, but become for the time being servants only of the League of Nations. Their duties are not national, but international." [1]

3. Finances of the League

Allocation. "The expenses of the League shall be borne by the Members of the League in the proportion decided by the Assembly" (*Covenant*, Art. 6, par. 5).

The above provision is an amendment to the Covenant which went into force on August 13, 1924. The original provision apportioned the expenses on the basis of a scheme adopted for the Universal Postal Union, under which the first three budgets were allocated, with subsequent modifications.

The First Assembly recommended to the Council "the immediate appointment of a special committee . . . to investigate the question of the allocation of the expenditure of the League, with a view to an equitable scheme of allocation being devised." [2] The committee on allocation of expenses was first appointed on December 14, 1920. It

[1] *Resolutions and Recommendations adopted by the Assembly* . . . 1928, p. 62.

[2] *Resolutions adopted by the Assembly*, 1920, p. 27; see also *Records of the First Assembly. Records of Committees*, II, p. 125.

was not until 1925 that the committee completed its work and a scheme was voted by the Sixth Assembly for the years 1926, 1927 and 1928. This was reexamined in 1928 and its revision postponed to 1930 when it is hoped fully stabilized conditions will prevail. The Ninth Assembly continued the 1926–28 scheme of allocation for the years 1929, 1930, 1931, and 1932. The report of the Fourth Committee to the Sixth Assembly presented a plan based on postwar data which overcame many difficulties in weighing fiscal ability of Members.[1]

SCALE OF ALLOCATION OF THE EXPENSES OF THE LEAGUE FOR 1929–32

Country	Units	Country	Units
Abyssinia	2	Italy	60
Albania	1	Japan	60
Argentine	29	Latvia	3
Australia	27	Liberia	1
Austria	8	Lithuania	4
Belgium	18	Luxemburg	1
Bolivia	4	Netherlands	23
Bulgaria	5	New Zealand	10
Canada	35	Nicaragua	1
Chile	14	Norway	9
China	46	Panama	1
Colombia	6	Paraguay	1
[Costa Rica]	[1]	Persia	5
Cuba	9	Peru	9
Czechoslovakia	29	Poland	32
Denmark	12	Portugal	6
Dominican Republic	1	Rumania	22
Estonia	3	Salvador	1
Finland	10	Serb-Croat-Slovene State	20
France	79	Siam	9
Germany	79	Spain	40
Great Britain	105	South Africa (Union of)	15
Greece	7	Sweden	18
Guatemala	1	Switzerland	17
Haiti	1	Uruguay	7
Honduras	1	Venezuela	5
Hungary	8		
India	56		986
Irish Free State	10		

[1] *Records of the Sixth Assembly, Plenary Meetings*, p. 420.

Budgets. The budget meets the expenses of the Assembly, the Council and the Secretariat; the International Labor Office, and the Permanent Court of International Justice since 1922. The total budgets have been:

Period	Amount	Unit
1. May 5, 1919–June 30, 1920	£291,078 15s. 10d =$1,416,535	£648
2. April 1–Dec. 31, 1920	10,000,000 gold francs =$1,930,000	20,920 gold francs (Swiss)
3. Jan. 1–Dec. 31, 1921	21,250,000 gold francs =$4,101,250	
4. Jan. 1–Dec. 31, 1922	20,873,945 gold francs =$4,028,671	
5. Jan. 1–Dec. 31, 1923	25,673,508 gold francs =$4,954,987	
6. Jan. 1–Dec. 31, 1924	23,233,635.7 gold francs =$4,483,007.69	$4,810.09
7. Jan. 1–Dec. 31, 1925	22,658,138 gold francs =$4,371,963.49	4,675.90
8. Jan. 1–Dec. 31, 1926	22,930,633 gold francs =$4,424,542.31	4,722.03
9. Jan. 1–Dec. 31, 1927	24,512,341 gold francs =$4,729,738.17	4,659.84
10. Jan. 1–Dec. 31, 1928	25,333,817 gold francs =$4,888,244.69	4,787.39
11. Jan. 1–Dec. 31, 1929	27,026,280 gold francs =$5,214,811.09	5,288.86

The budget for 1929 is divided as follows:

		Gold francs
I.	Secretariat and Special Organizations	14,713,085
II.	International Labor Organization	8,612,640
III.	Permanent Court of International Justice	2,255,555
IV.	Buildings at Geneva	1,445,000
	Total	27,026,280

The total budgetary contributions up to December 31, 1925, exclusive of the Working Capital Fund, amounted to 116,232,938.29 gold francs. The allocation of actual expenditure, including payment for the Secretariat office and the International Labor Office building, up to the same date based on annual scales of apportionment was

97,872,077.76 francs. The amounts overpaid by the Member states reached a total of 22,837,481.83 francs, while amounts underpaid by Bolivia, China, Honduras, Liberia, Nicaragua, Peru and Salvador reached a total of 4,476,621.30 francs.[1] As a consequence of these circumstances the Supervisory Commission decided upon a readjustment in the 1927 budget so as to refund to Member states all surpluses which had accumulated up to December 31, 1925. Rules to govern refunds were laid down [1] and 1,400,000 francs ($270,134.68) was assigned for deduction from the budget annually for 1927 and succeeding years until the readjustment is completed.

Supervisory Commission

The First Assembly examined the financial arrangements previously made by the Secretariat with great care, and on December 17, 1920, voted that the Council should appoint "a small committee of experts to consider all factors connected with the organization, method of work, efficiency, number, salaries and allowances of the staff, and with the general expenditure of the whole organization,[2] as well as with all other points necessary to enable the Assembly to form a fair judgment in respect thereto, both as regards the Secretariat and the International Labor Office." A committee of five began a preliminary investigation on April 18, 1921, and sat from April 26 to May 7, when it presented a report to the Council. This report was transmitted to the Second Assembly [3] which on October 5, 1921,[4] passed a recommendation that the committee be reappointed by the Council to continue its work. The Council on October 12, 1921, appointed the Commission of Control. The name was subsequently retranslated as the Supervisory Commission. The Ninth Assembly

[1] *Supervisory Commission. Report . . . on its 18th and 19th Sessions* (1926. X. 8), p. 4–5.

[2] The "Regulations for the Financial Administration of the League of Nations" are printed in *Official Journal*, V, p. 78.

[3] *Records of the Second Assembly. Meetings of the Committees*, II, p. 174.

[4] *Ibid., Plenary Meetings*, p. 595.

decided that the commission should thereafter be elected by the Assembly, thus emphasizing its control over the finances.

United States Payments. The American legation in Bern was authorized on January 6, 1928, to pay to the Secretariat of the League a total of $16,748.60 (the check was for 83,743 Swiss francs) as the American share of the League Secretariat expenses in connection with certain conferences in which the United States participated. Of the total amount, $5,475 was for the four sessions of the Preparatory Commission for the Disarmament Conference. The remainder met expenses for the Conference on Export and Import Prohibitions and Restrictions, and the Conference on Communications and Transit. The contribution was made at the suggestion of the United States Government on the basis of figures prepared by the Secretariat. The Department of State stated that "the American contribution is the same as the British, which is the largest sum hitherto paid by any country." From this it is to be concluded that the United States bases its payments upon the 105 units of the budget assigned to Great Britain. In addition to this payment, the United States Government buys documents from the League to the amount of $400 annually.

Previous payments of a similar character were made in the amount of $2,900 in 1925 as a result of participation in the Second Opium Conference and of $2,700 in connection with participation in the Conference on Traffic in Arms, also held in 1925.

Assembly Hall

The Fifth Assembly requested the Council to appoint architects to draw up the conditions of a competition for plans for a new conference hall. The Secretariat is housed in the former Hotel National, situated in grounds of its own on the west side of Lac Léman. Additional property adjacent was added by gift from the Canton and City of Geneva, making a total site of 13,104 square meters

(141,051 square feet). The only large building available for the Assembly is the Hall of the Reformation across the lake, a mile or more away. The Assembly early considered it desirable to have the hall for its meetings more accessible to the Secretariat, where the Council holds its sessions and where all files and other records are kept.

In 1923 a resolution in favor of erecting a hall on the land given by the Canton and City of Geneva, adjacent to the Secretariat, was passed. The available site offered perhaps 5,000 square meters (50,382 square feet) for the purpose. The architects considered this site too small and another site was proposed farther up the west side of the lake between the Parc Mon Repos and the International Labor Office building. This consisted of four properties, one of which was not obtainable. Consequently, the Ninth Assembly concluded arrangements with the Genevan authorities to place the new buildings in Ariana Park, which abuts on the International Labor Office property on the lake front. The area acquired by the exchange is about 250,000 square meters.

In September, 1927, John D. Rockefeller, Jr., tendered, and the Council and Assembly accepted, $2,000,000 for the construction and endowment of a League Library which would also provide full and adequate facilities for private research work.[1] A special committee is working on conditions to be met and is securing plans.

An international jury of architects for the selection of plans by competition for the new Assembly Hall was appointed by the Council in September, 1924. The competition closed on January 25, 1927. None of the prize-winning plans was deemed entirely suitable and a committee was appointed to adapt them. The change of site to Ariana Park necessitates still further adjustments in the plans. The Assembly Hall and new Secretariat will cost 19,500,000 francs, or about $3,900,000.

[1] *Official Journal*, VIII, p. 1132.

4. Registration of Treaties

"Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered" (*Covenant*, Art. 18).

"Publicity has for a long time been considered as a source of moral strength in the administration of national law. It should equally strengthen the laws and engagements which exist *between nations*. It will promote public control. It will awaken public interest. It will remove causes for distrust and conflict. Publicity alone will enable the League of Nations to extend a moral sanction to the contractual obligations of its Members. It will, moreover, contribute to the formation of a clear and indisputable system of international law." (Memorandum approved by the Council, May 19, 1920.)[1]

Registration. Certified, complete texts are communicated to the Secretariat by one or all parties to the engagement. Certificates of registration are delivered to the party registering the document.

A register, entitled "Registration of Treaties," an elephant folio series of volumes marked off in columns, is kept. In these volumes are inscribed the names of the parties to the engagement, its short title, date of signing, date of ratification, date of registration and registration number, determined chronologically by the order of presentation. In a supplementary register each treaty or engagement is assigned a separate page, on which are noted additional signatures, ratifications, adhesions, denunciations, etc., as well as records of negotiations, national legislation, and other details of the document's history.

Treaty Series. The obligation of publishing international engagements is met by the issuance of the *Treaty*

[1] *Treaty Series*, I, p. 9.

Series: Publication of Treaties and International Engagements Registered with the Secretariat of the League.

The first treaty was filed for registration by Denmark, Norway and Sweden on July 5, 1920, and was registered the same day. The first issue of the *Treaty Series* was published in September, 1920, and contained nine treaties. Seventy-two volumes of over 400 pages each have been issued up to 1929.

Texts are published in the languages of negotiation, and in French and English, if either of these official League languages were not used for the original texts.

The total registration, which does not include treaties filed by the United States for publication, on November 1, 1928, was 1859, as follows:

1920	July–December	70
1921	January–December	128
1922	January–December	165
1923	January–December	180
1924	January–December	251
1925	January–December	249
1926	January–December	350
1927	January–December	221
1928	January–October	211
	Total	1,859

III. PROMOTION OF INTERNATIONAL COOPERATION

The Assembly and Council are assisted in specific phases of League business by what are known as Technical Organizations. The fully developed technical organization devotes itself to a single field of international relations and consists of three parts: 1, A section of the Secretariat serving as an exploring, recording and secretarial body; 2, An advisory or technical committee composed of experts serving to give definite form to the material placed before the committee by Member states or the Secretariat; 3, Conferences of representatives of Member and other states convened on the advice of the committee and on invitation from the Council, resulting in international conventions submitted by signatory states to their appropriate internal organs for ratification.

The technical organizations are "established for the purpose of facilitating the task of the Assembly and the Council . . . on the one hand and on the other to assist Members of the League by establishing direct contact between their technical representatives in the various spheres, to fulfil their international duties. With this double object, they must keep enough independence and flexibility to make them effectively useful to the Members of the League, and yet they must remain under the control of the responsible organizations which conduct the general business of the League."

1. Economic and Financial Organization

On the invitation of the Secretary-General a conference on International Cooperation in Statistics was held in London, August 14–15, 1919, before the League was formally in being. The Council at Rome in May, 1920, appointed a commission to advise it upon what steps should

be taken. This commission met at Paris on October 10, 1920, and surveyed the field, which was then more or less dominated by the Supreme Economic Council, a development from the Supreme War Council which had been active during the World War. Eventually, in July, 1921, the League continued the publication of the *Monthly Bulletin of Statistics*, which otherwise would have ceased with the dissolution of the Supreme Economic Council in the previous May.

The first definite action of the League in this field was the convening of the Brussels International Financial Conference which sat from September 24 to October 8, 1920, and was attended by representatives of 39 states, including the United States. The conference produced a series of resolutions which were generally recognized as a fundamental statement of the financial problems involved in reconstruction.

The resolutions of the conference were forwarded to Member states by the Council, which, in accordance with them, on October 25, 1920, decided upon the creation of a financial and economic organization consisting of two sections of 10 members each to proceed separately with their technical work and to meet as a single committee whenever proposals of a general nature are to be laid before the Council, or at the request of either.[1] The First Assembly confirmed this action. The Provisional Economic and Financial Committee was appointed by the Council on November 14, 1920. It was continued provisionally through the calendar years 1922 and 1923 by the Council.[2] On September 10, 1923, the Council prolonged its term of office until further orders and the title became Economic and Financial Commission.[3]

[1] Council, *Minutes of the 10th Session*, p. 29 and 209.

[2] Council, *Minutes of the 14th Session*, p. 101; *Official Journal*, III, p. 1398.

[3] *Official Journal*, IV, p. 1303.

The Economic Organization

The Economic and Financial Commission from 1920 to 1927 was divided into the Financial Committee and Economic Committee, each consisting of 10 members. It was the Economic Committee alone which was primarily concerned in preparation for the International Economic Conference. That conference expressed the opinion that its success would depend upon the execution of the principles laid down by it, and, with respect to appropriate organization, drew "the Council's attention to the well-balanced composition of the Preparatory Committee, which has yielded excellent results."

The Eighth Assembly dealt with the reorganization. Its resolution stated that much important and extensive work would result from the recommendations of the Economic Conference in addition to the economic tasks hitherto taken up by the League. It called attention to the essential desirability of the different interests and organizations which had collaborated in the preparation of the conference continuing to give their support and advice. It, therefore, concluded that the Economic Committee should continue as "the organ through which the Council deals with economic affairs" and that it should be constituted "so as to be best suited for its principal work which, in the near future at least, will lie within the sphere of the economic relations between states and their economic policies so far as they have international aspects." The resolution[1] envisaged three bodies, in addition to the Secretariat:

(*a*) The Economic Committee;

(*b*) "Temporary subcommittees of experts for preparatory work and, subject to Council approval and in consultation with the states in question, economic correspondents in countries which have no member on the committee;" and

(*c*) "A Consultative Committee the object of which is

[1] *Official Journal*, VIII, p. 1482.

to follow the application of the Economic Conference recommendations."

The Economic Committee provided by the Council on September 27, 1927, consists of 15 members of different nationalities appointed in their personal capacity on the ground of their qualifications and holding office for three years. Retiring members become "corresponding members" unless succeeded by a member of the same nationality.

The Consultative Committee was established by the Council, December 9, 1927,[1] with a membership of about 60. The committee is modeled in make-up after the Preparatory Committee for the International Economic Conference and includes persons competent in industry, commerce, agriculture, finance, transport, labor questions, and questions relative to consumption. Three members from the International Chamber of Commerce are provided for.

World Economic Conference

The Sixth Assembly, on the proposal of the French delegation, called for an international economic conference because it was "convinced that economic peace will largely contribute to security among nations" and was persuaded of the necessity of investigating difficulties affecting the revival of general prosperity.

The proposal was universally recognized as of fundamental importance and every effort was made to insure that no stone was left unturned to bring forth the soundest judgment, unaffected by political considerations of any kind. The first step was for the Council to appoint a Preparatory Committee composed of the experts best fitted by their qualifications and personal experience to prepare the work of the conference, and not of representatives of Governments or organizations. It was given full scope[2] and for

[1] *Official Journal*, IX, p. 171–172. The committee includes nationals of the following countries: Australia, Austria, Belgium, Great Britain, Canada, Chile, China, Colombia, Czechoslovakia, Denmark, Finland, France, Germany, Greece, Hungary, India, Italy, Japan, Luxemburg, Netherlands, Poland, Portugal, Rumania, Serb-Croat-Slovene State, Spain, Sweden, Switzerland, United States.

[2] *Official Journal*, VI, p. 185, 238, 358.

over a year its 35 members from 21 countries worked on the program and collected and published in 60 memoranda an enormous amount of material, compiled with the aid of official and private organizations throughout the world and covering an extremely wide range of subjects.[1]

The International Economic Conference summoned by the Council sat at Geneva from May 4 to 23, 1927, and was attended by 190 delegates and 157 experts from 50 countries.[2] It was also attended by observers from Mexico; by representatives of the Chambers of Commerce and other international organizations appointed by the Council, and by experts invited by the president of the conference.

The delegates, selected by their Governments on the basis of technical and personal qualifications, were not spokesmen of any official policy, and their personal responsibility alone was engaged. They included industrialists, merchants, bankers, economists, agriculturists, officials with experience of commercial policy, representatives of workers' and consumers' organizations and cooperative societies and three women specialists in economic matters.

The main object of the conference as recommended by the Assembly was to bring about a general exchange of views on existing economic difficulties and the means of overcoming them — to evoke collective opinion on the conditions, principles and guaranties which might serve as a starting point for the improvements and progress necessary to restore greater freedom to international commerce. The conference was only a stage in the continuous work of collaboration in the economic sphere which began before the project of a general conference was launched, and continues after the conference itself.

[1] The documentation is on sale by World Peace Foundation (catalog furnished); see also World Peace Foundation Pamphlets, Vol. X, No. 4 and *Report to the Council on the Second Session of the Committee* (1926. II. 57), p. 4.

[2] The countries represented were Abyssinia, Albania, Australia, Austria, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Danzig, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, India, Irish Free State, Italy, Japan, Latvia, Luxemburg, Netherlands, New Zealand, Nicaragua, Norway, Paraguay, Persia, Poland, Portugal, Rumania, Salvador, Serb-Croat-Slovene State, Siam, South Africa, Sweden, Switzerland, Turkey, Union of the Socialist Soviet Republics, United States, Uruguay and Venezuela.

The Final Report of the conference was a full review of the economic position in the world in 1927. Generally, it was found that production and consumption were greater than before the war, but that they were unevenly distributed throughout the world. The inequalities affected international trade injuriously. Industries enjoyed unequal prosperity, some suffering undue depression. The world had not adjusted itself to such abnormal charges as war debts and to the sudden increase in manufacturing facilities in countries formerly producing only raw materials.

The very extensive report based upon the resolutions of the conference dealt in general and in detail with (1) commerce in its relation to liberty of trading, customs tariffs, commercial policy and treaties; (2) industry in its relation to the general situation, rationalization, international industrial agreements and industrial information; (3) agriculture in several general and various special aspects.

The Final Report is textually available in separate form [1] and should be read as a whole in order to comprehend the new orientation which the conference has given to the world's economy. Though its conclusions were those of experience rather than of governmental authority, their clearness, logic and practical value gave them a high standing without delay. The Assembly in a resolution on September 20, 1927,

> Believes . . . that there is every reason to hope for universal approval when the public opinion of all countries has been sufficiently instructed; . . .
>
> Trusts that the economic policies of all countries may develop in accordance with the principles laid down by the conference and desires that the Economic Organization of the League should take these recommendations as the basis of its work.

No state has disapproved of the *Final Report* and its recommendations. On the other hand, 30 Governments

[1] *The World Economic Conference, Final Report* (C. E. I. 44 (1), p. 49) and *Report and Proceedings of the World Economic Conference, held at Geneva, May 4th to 23rd, 1927* (C. 356. M. 129. 1927. II. 52).

have accepted it in whole or in part or by general approval.[1] It may be regarded as the international program for economic peace and progress.

Economic Consultative Committee

The first session of the Economic Consultative Committee was held in Geneva May 14–19, 1928, exactly a year after the International Economic Conference. Its function is to survey the economic situation as it has developed since the conference with particular attention to the way in which its recommendations are being applied.

Its report [2] reviewed action taken on the Final Report and noted that it had influenced the independent action of Governments. The rising movement of tariffs had ceased but their decrease had not begun. As to future work it laid stress on the importance of the program already begun by the Economic Committee and pointed to the following new tasks:

A study of the subjects of rationalization and industrial agreements, and the provision of adequate statistics and information concerning industrial development.

The serious position of the coal and sugar industries should be studied to ascertain whether concerted international action could further the solution of the problems presented.

Information should be collected concerning the intensification of agricultural production, training, cooperation, credits, means of transport, marketing and development of direct relations between producers' and consumers' Cooperative Societies.

A preliminary study should be made of some of the more important principles and tendencies in financial and economic policy which tend to create or destroy conditions favorable to peace.

The maintenance of stabilized currencies at par and prevention of fluctuations in the purchasing power of gold.

[1] *Official Declarations concerning the Recommendations of the International Economic Conference*, (C. E. I. 45 (1). 1928. II. 4). The Governments are: Australia, Austria, Belgium, British Empire, Bulgaria, Canada, Chile, Cuba, Czechoslovakia, Denmark, Estonia, Finland, France, Germany, Hungary, India, Italy, Japan, Luxemburg, Netherlands, Norway, Persia, Poland, Portugal, Rumania, Serb-Croat-Slovene State, Sweden, Switzerland, Union of Socialist Soviet Republics and Uruguay.

[2] *Official Journal*, IX, p. 1114; the proceedings are C. 217. M. 73. 1928. II. 18, on separate sale.

Economic Committee

In June, 1927, the Economic Committee concluded that its immediate task was to carry out the commercial policy advocated by the conference. It began an inquiry concerning customs tariffs and commercial treaties on that basis.[1] By June, 1928, it had reached some conclusions. The committee then unanimously recognized that no new tariffs should be instituted or existing ones recast without taking account of their effect on international trade. Customs tariffs may be established by treaty after negotiation (bargaining tariffs) or by legislation not subject to treaty alteration (intangible tariffs). The committee did not conclude whether the effect of a tariff on international trade was compatible with the theory of the intangible tariff, applied without discrimination.

Incompatibility would exist if the intangible tariff constituted an intolerable obstacle to foreign trade. States applying that system should be ready to examine the claims of other states and establish rates for fairly long periods.

As to bargaining tariffs the committee recommended reduction of the margin of negotiation, consolidation of tariffs and conclusion of long-term agreements.

Not only customs tariffs but commercial policy revolves largely around the most-favored-nation clause, of which there are several conceptions in practice. A careful report explored this complicated subject and the committee in October, 1928, began seeking a formula that would command general acceptance and serve as a basis for reducing the confusion which exists by reason of the numerous variations of current commercial policy.

The June report laid stress upon reduction of tariffs by bilateral and collective action. Respecting collective action the results of the conference on hides, skins and bones [2] offered a precedent. The committee chose a number of basic industrial products for detailed study with a view to

[1] *Official Journal*, VIII, p. 1165; IX, p. 512.

[2] See p. 52.

devising practical suggestions for a concerted reduction of tariffs on them. The products selected are aluminium, semi-manufactured iron products, cement, leather, log and sawn wood, cellulose and paper, fresh fruits and vegetables, rice.[1]

Administrative protectionism, the habit of national customs officials to bar goods by special rulings, is under study.

Import and Export Prohibitions and Restrictions

This question was studied by the Economic Committee as a result of a resolution passed by the Fifth Assembly on September 25, 1924, and culminated in a diplomatic conference of 34 states held at Geneva, October 17–November 8, 1927,[2] and another of 29 states July 3–11, 1928, to complete the convention. The conference disclosed the extreme complexity of the problem, showed that the system had taken deep root in commercial policy, and that its abolition would affect numerous private enterprises. It also revealed the interdependence of certain prohibitions and the effect of prohibitions in one state upon the rëgime in force in other states for similar or other wares. The conference thus had to deal with concrete problems affecting enormous interests. The convention is the first multilateral treaty regulating commercial relations between states.

The supplementary agreement[3] of July 11, 1928, completed the lists of prohibitions temporarily recognized and of those not affecting international trade.[4] Six months after the convention is in force all other prohibitions cease.

By the supplementary agreement the convention must be ratified by 18 states to come into force. The parties

[1] Economic Committee. *Report . . . on the 25th Session*, p. 2 (C. 558, M. 177. 1928. II. 48).

[2] *Official Journal*, VIII, p. 1653.

[3] *Official Journal*, IX, p. 1256. It was signed by Germany, Austria, Belgium, Great Britain, Italy, Denmark, Egypt, Estonia, Finland, France, Hungary, India, Italy, Japan, Latvia, Luxemburg, Norway, the Netherlands, Poland, Portgual, Rumania, the Serb-Croat-Slovene State, Siam, Sweden, Switzerland, Czechoslovakia, Turkey and the United States.

[4] The lists are conveniently summarized in *Monthly Summary*, VIII, p. 203.

may make entry into force dependent upon the ratification or accession of one or more of the following: Austria, Czechoslovakia, France, Germany, Great Britain, Hungary, Italy, Japan, Serb-Croat-Slovene State, Poland, Rumania, Switzerland, Turkey, and the United States. Ratifications should be deposited before September 30, 1929, an exception being made for the United States. If the requisite conditions are then fulfilled, the convention will enter into force on January 1, 1930.

Hides and Bones. The 1927 conference showed that special tariff conditions existed respecting hides and bones, the sources of leather, fertilizers, glue and other manufactured articles. Two Conferences for the Abolition of Export Prohibitions and Restrictions on Hides and Bones were held at Geneva March 14–16, and June 28–30, 1928, the first attended by 12, and the second by 19 states. They were the first meetings summoned by the League specifically to limit customs tariffs on raw materials. The first conference adopted two protocols which were recommended to Governments; the second revised and enacted these into international agreements [1] supplementary to the convention of November 8, 1927.

Veterinary Questions. The 1927 conference in its final act recognized that sanitary or veterinary measures might legitimately be applied, but endeavored to prevent such measures from becoming a disguised form of economic protection. For this reason it recommended the Council to undertake investigations, inquiries and consultations with a view to summoning one or more conferences of experts to study measures of proved efficacy in animal and plant disease and how to adjust them strictly to risks of infection. A Subcommittee of Experts on Veterinary Questions met twice in 1928 and, as immediate steps, advised that each state should possess a veterinary organization capable of exercising efficacious sanitary supervision over the whole

[1] *Official Journal*, IX, p. 1289 and 1307. They were each signed by Austria, Belgium, Czechoslovakia, Denmark, Finland, France, Germany, Great Britain, Hungary, Italy, Luxemburg, Netherlands, Norway, Poland, Rumania, the Serb-Croat-Slovene State and Switzerland.

of its territory and that each should publish a regular health bulletin prepared on the standard lines adopted by the Committee of the International Office for Contagious Diseases of Animals. It will examine the import and export of animals, trade in their products and disinfection to do away with "veiled protectionism."

Simplification of Customs Formalities

The conference prepared by the Economic Committee was held at Geneva, October 15–November 3, 1923, with 35 states participating.

The international convention[1] relating to the simplification of customs formalities signed at Geneva, November 3, 1923, came into force on November 27, 1924. The contracting states "undertake that their commercial relations shall not be hindered by excessive, unnecessary or arbitrary customs or other similar formalities." They undertake to revise their laws with a view to their simplification and adaptation to the needs of foreign trade and to the avoidance of all hindrance to such trade "except that which is absolutely necessary in order to safeguard the essential interests of the state." With respect to customs and the formalities of trade, they agree to abstain from any unjust discrimination against the commerce of any contracting state, in accordance with legislation or reciprocal commercial agreements. Rules for simplifying formalities with respect to import and export prohibitions and restrictions are laid down.

The prompt publication of customs regulations is stipulated and provision for their being brought to the adequate notice of those concerned is made. The publication of complete tariffs is enjoined, together with the desirability of stating duties in clear and unequivocal forms. All publica-

[1] *Treaty Series*, XXX, p. 371. Ratifications: Australia, Austria, Belgium, British Empire, Bulgaria, China, Czechoslovakia, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, Italy, Luxemburg, French protectorate of Morocco, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Norway, Rumania, Siam, Sweden, Switzerland, Regence of Tunis, Union of South Africa. Accession: Persia.

tions respecting customs and formalities connected with them shall be communicated to all contracting states, to the Secretariat of the League and to the International Office for the Publication of Customs Tariffs at Brussels.

States undertake to prevent arbitrary or unjust application of their laws and to insure means of redress for those prejudiced by abuses. Goods which form the subject of a dispute shall be released immediately upon the solution of the dispute, which must be as speedy as possible. Annual reports[1] of measures taken in accordance with these undertakings shall be summarized for the Secretariat of the League.

Provisions for the free importation of commercial samples and to facilitate the work of traveling salesmen are given in Art. 10.

Special regulations are laid down to insure the rapid passage of goods through the customs,[2] the examination of travelers' baggage, the treatment of goods in warehouses, warehousing charges for goods shown on manifests but not landed, and the cooperation of the customs offices concerned. Especially favorable treatment is stipulated for goods which are to undergo a manufacturing process, for articles intended for purposes of exhibition and for goods to be returned, such as touring vehicles, furniture vans, samples, etc.

Arbitration of Commercial Disputes

The principle of the arbitration of commercial disputes, resulting from international trade, by chambers of commerce and business men themselves resident abroad has gained great popularity since the World War. The recognition of the validity of these decisions in courts and otherwise required international action. As a consequence the Economic Committee drew up a protocol.

[1] These are being communicated regularly (*Official Journal*, VII, p. 831, 844; VIII, p. 636, 1614; IX, p. 343, 733, 834).

[2] The Economic Committee is perfecting a draft convention on false customs declarations (*Official Journal*, VI, p. 955; VIII, p. 571).

This protocol on arbitration clauses [1] was perfected by the Fourth Assembly and opened for signature September 24, 1923. It came into force July 28, 1924. For disputes considered as commercial under their national law, the contracting states recognize the validity of agreements between persons, subject to different national jurisdictions, to arbitrate commercial disputes arising from their contracts, wherever the arbitration is to take place. The tribunals of the contractants will honor awards so made.

Under the terms of the protocol the contracting parties undertake to recognize the validity of arbitration agreements, but insure only the execution of arbitral awards pronounced in their own territory. In many countries long and costly proceedings are essential to carry out an award given in the territory of another contracting party. The Economic Committee, therefore, considered fresh international action to enable traders to resort to arbitration with full security. A Committee of Experts prepared a draft which was perfected as a convention [2] by the Eighth Assembly and opened for signature on September 26, 1927. The convention [2] on the execution of foreign arbitral awards is a technical document intended to adjust the validity of such awards to the procedure of national courts.

Unfair Competition

The attention of the Assemblies of 1922 and 1923 was drawn to "the harmful effect on legitimate trade of the manufacture and sale of products which . . . are a form of fraud owing to the various devices intended to disguise their real nature."[3] The result was a series of draft articles which, after consultation with the Inter-American High

[1] *Treaty Series*, XXVII, p. 157. Ratifications: Albania, Austria, Belgium, British Empire, Denmark, Finland, France, Germany, Greece, Italy, Japan, Monaco, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Norway, Rumania, Spain, Switzerland. Accessions: Southern Rhodesia, Newfoundland, British Guiana, British Honduras, Jamaica, Leeward Islands, Grenada, St. Lucia, St. Vincent, Gambia, Gold Coast, Kenya, Zanzibar, Northern Rhodesia, Ceylon, Mauritius, Gibraltar, Malta, Falkland Islands, Iraq and Palestine, Tanganyika, St. Helena.

[2] For text see Document C. 659. M. 1928. II. 1.

[3] *Official Journal*, V, p. 558; for data collected see p. 1474, 1485.

Commission, were incorporated in the International Convention for the Protection of Industrial Property revised at a conference at The Hague November 6, 1925.[1]

By these changes states agree to cancel the national registration by another person of trademarks, etc., owned by the nationals of another state, in case of bad faith. They undertake to insure nationals of other states against unfair competition, defined as "any act contrary to honest industrial or commercial practices."

Unification of Economic Statistics

A joint meeting was held in London on December 4–5, 1922, of representatives of the Economic Committee, the International Labor Office and the International Institute of Statistics, to discuss what practical measures might be adopted to increase the comparability of methods in use in different countries in the compilation of economic statistics.

The Preparatory Committee on Statistical Methodology [2] carried on the work in conjunction with the International Institute of Statistics. In 1927 the Economic Committee named a Preparatory Committee for the Statistical Conference. The International Conference for the Unification of Economic Statistics convened at Geneva November 26, 1928, attended by delegates of 41 states to consider (1) the scope of economic statistics, that is to say, the field of economic activity which national statistics should normally embrace, and (2) methods to be adopted by Governments with a view to the comparability of industrial and commercial statistics.

Future Conferences

Treatment of Foreign Nationals. The attention of the Economic Committee was called to the treatment of foreign nationals and enterprises by a resolution of the Fourth Assembly in 1923. In May, 1925, the committee reported to the Council that, in general, persons exercising a profes-

[1] The added articles are Arts. 6 *bis*, 6 *ter*, 10 *bis* and 10 *ter*.

[2] *Official Journal*, IV, p. 275, 966; V, p. 555; VIII, p. 396.

sion or trade in a foreign country should receive the same treatment as nationals of that country, subject or not to reciprocity in their countries. The number of professions, industries and occupations for which national interests may require restrictions to be imposed on foreigners should be limited to the minimum compatible with the protection of such interests; the same rule should apply to restrictions. Discrimination based on the nationality of persons concerned should be avoided.[1]

A questionnaire to states enabled the committee to prepare a draft convention, which after study by Governments, is to be laid before a conference in 1929.

Bills of Exchange and Checks. A Committee of Experts at Geneva in December, 1926, reported to the Economic Committee that solution of the difficulties encountered by bankers and merchants in daily business as a result of the divergences between the laws of different countries on bills of exchange lay first in an attempt to assimilate or harmonize the laws of countries belonging to the Continental group.[2] A Committee of Legal Experts then developed draft conventions aimed at harmonizing the various laws of the continental group on bills of exchange and checks. Replies from Governments have been sent in and a conference is planned in 1929.

Tariff Nomenclature. The Economic conference stated that a fixed nomenclature for goods subject to customs duties was an essential condition of equity in their application and ease in their collection, and recommended that the Council take the initiative in drawing up an appropriate procedure for establishing a systematic customs nomenclature in accordance with a general plan covering all classes of goods. In July, 1927, the Economic Committee decided to appoint a committee of customs experts to study the matter. International conferences to study the question in 1900 at Paris and at Brussels in 1913 had dispersed after finding it practically impossible to make even

[1] *Official Journal*, VI, p. 955, 878.
[2] *Ibid.*, VIII, p. 575, 583.

a beginning. In October, 1928, the Subcommittee of Experts on the Unification of Tariff Nomenclature had decided on a draft framework and, after hearing, from Governments upon it, was ready to prepare a draft standard nomenclature for eventual consideration by a conference. This will facilitate tariff agreements and increase the efficacy of the most-favored-nation clause.

Financial Committee

The Financial Committee has been the medium through which the League has contributed to the reconstruction of Europe. By common consent the aid of the League saved Austria and Hungary from disaster and anarchy and restored them to their places in the world with their autonomy intact. In the past such crises frequently resulted in the loss of autonomy or even independence.

While the League has undertaken many other activities of a financial character the work of the committee concentrated in loans for reconstruction or internal reform constitutes the largest single phase of its efforts. All these have involved some degree of League control or management. The loans are all international, that is, floated on several markets. The list follows:

Country	Protocol	Amount	Rate
Austria	Oct. 4, 1922	585,000,000 gold crowns	7
Hungary	Mar. 14, 1924	250,000,000 gold crowns	7½
Greece	Sept. 19, 1924	£10,000,000	7
Danzig	Feb. 19, 1925	40,000,000 gulden	7
Bulgaria	Sept. 8, 1926	£2,112,000 $3,915,000	7
Estonia	Dec. 10, 1926	£700,000 $4,000,000	7
Danzig, Municipality	June 22, 1927	£1,900,000	6½
Danzig Harbor Board	July 1927	$4,500,000	6½
Bulgaria	Sept. 12, 1927	$13,000,000	7½
Greece	Sept. 15, 1927	£4,070,960 [1] $17,000,000	6

[1] $19,811,327.

Financial Reconstruction

Austria. In March, 1921, Great Britain, France, Italy and Japan decided to release Austria for a period of years from their liens in respect of all claims for relief credits, reparation, etc., provided other interested Governments did the same and provided Austria was prepared to place the administration of her assets in the hands of the League under the international credits (Ter Meulen) scheme.[1] The Financial Committee drew up a detailed scheme, which failed to be put into operation because of the slowness of interested Governments, especially the United States, to grant Austria the necessary moratorium.[2]

By February, 1922, Austria's condition had become so grave that a collapse was imminent. Great Britain, France, Italy and Czechoslovakia came to the rescue by providing public loans, which arrested disaster during the first six months of 1922. Austria's financial disorganization continued at an increased pace.

In August, when the crown was one-tenth of its value six months before and only 1/15,000 of its gold value, the Austrian Government made a desperate appeal to the Supreme Council of the Allied Premiers, then meeting in London. A further depreciation of the crown, said the Austrian spokesman, must lead to social upheavals of great danger to Europe itself, marking the end of an independent Austria. On August 15, 1922, the Supreme Council told Austria that "there is no prospect of further financial assistance to Austria from the Allied Powers, unless the League were able to propose such a program of reconstruction . . . as would induce financiers in our respective countries to come to the rescue of Austria."

The Council at Geneva on August 31 instructed the Financial Committee to examine the problem in its essentials. On September 6, Premier Seipel of Austria was heard by the Council in public meeting. He put Austria's fate

[1] *International Financial Conference*, 1920, I, p. 27.

[2] See *The Financial Reconstruction of Austria* (Geneva, 1921) for the documents.

completely into the hands of the League. The Council invited Czechoslovakia to join the Council for this question, and a committee consisting of Lord Balfour (Great Britain), Gabriel Hanotaux (France), Marquis Imperiali (Italy), Premier Beneš (Czechoslovakia) and Premier Seipel (Austria) was formed to direct the solution of the problem.

This committee organized the work, using the League's Economic, Financial and Legal Committees, but keeping in its own hands the political aspects of the question. In 12 meetings the committee determined the general outline of the task, parceled its details out to the experts, heard their interim and final reports and finally saw the three protocols effecting a solution of the question signed on October 4.[1] The two multilateral protocols were signed by Great Britain, France, Italy, Czechoslovakia and Austria; Belgium, Denmark, Netherlands, Spain and Sweden adhered to the second.[2]

The guarantors promised to respect the political independence, territorial integrity and sovereignty of Austria, to seek no special or exclusive economic or financial advantage compromising that independence, and to comply with the decisions of the Council in respect to any question arising with regard to those matters. The program of reform was directed to the balancing of her budget by the end of 1924. The deficit in the interval, a maximum of 650,000,000 gold crowns, was to be met by proceeds from a loan. This was guaranteed by Austrian assets, and further by the guarantor Governments in definite proportions, so that the subscriber to the loan has a double security, while the guarantor has no liability until Austrian assets prove insufficient. A Bank of Issue under definite and specified conditions was established on January 2, 1923, and Austria relinquished to it all rights with respect to currency utterance. A long program of Austrian reforms was carried out under a commissioner-general, an officer of the League of Nations resident in Vienna and reporting monthly to

[1] *Treaty Series*, XII, p. 385.
[2] *Ibid.*, XV, p. 321.

the Council. A Committee of Control of the Guaranteeing Governments was provided to watch over their special interests.[1]

The essential features of the program were the provision by loan to meet the deficit during a period when financial reform was taking place, the arrest of the collapse of the crown, and the supervision of the Austrian Government's execution of the scheme within carefully defined and restricted limits by the Commissioner-General of the League, whose monthly reports for 3½ years give all necessary details.[2] The Commissioner-General's functions terminated on June 30, 1926. The period from the signing of the protocols until that date may be summarized:

1. October 4–December 14, 1922 — Preparation for putting the scheme into execution.

2. December 15, 1922–August, 1923 — From the beginning of the Commissioner-General's control to the successful issue of a long-term reconstruction loan. The scheme of control was successfully established, reforms were begun, a series of special inquiries made, and the necessary external loan definitely obtained. The period was characterized by a remarkable financial recovery leading to a boom and excessive stock exchange speculation.

3. September, 1923–September, 1924 — Reconstruction work proceeded more slowly with modifications in the original plan. An agreement was effected in September, 1924, by which Austria pledged itself to take 15 specified measures, several of which related to financial re-establishment on a gold basis, and to execute specified reforms.[3]

4. September, 1924–June, 1926 — The reforms were gradually effected. The process of establishing Austrian currency on a gold basis was completed on July 1, 1925, the Austrian crown having been absolutely stable since October, 1922. The unit of stabilization was the schilling, containing 0.2117208 grams of gold, 900 fine, being equivalent to 10,000 paper crowns and worth 14⅛ cents, or 34.585 to the pound sterling. General anxiety as to the economic future of the country led to a special inquiry by Walter T.

[1] *Treaty Series*, XV, p. 321.

[2] The reports are printed separately and also in the *Official Journal*.

[3] Text, *Official Journal*, V, p. 1557.

Layton and Charles Rist, who made a report to the Council.[1] In September, 1925, a modified control was introduced contemplating a gradual relaxation by stages.[2] By June 30, 1926, the final conditions for the complete removal of the control were carried out and the Commissioner-General's services were terminated.

The last formal chapter in this "great act of international cooperation" was the session of the Council on June 9, 1926.[3] The Financial Committee reported Austria's house in order. The commissioner-general testified that Austria had so far recovered from her desperate condition of a few years ago that she was leading a normal life and was in a better financial position than many other countries.

Present Régime. The protocols of October 4, 1922, remain in force so that, while Austria is financially autonomous, the country has special international duties of a financial character. By Protocol No. III, par. 5, security for the international loan of June, 1923, is the gross receipts of the customs and of the tobacco monopoly. Protocol No. II establishes a Committee of Control in charge of these revenues. The Committee of Control, which consists of appointees of the guaranteeing governments, retains its powers under the protocols and communicates directly with the Austrian Government. The special account into which the yield of the gross revenues designed as security continue to be paid remains under the management of the trustees, who draw from it the sums required for the service of the loan, placing the balance at the disposal of Austria. The trustees in this duty succeed the commissioner-general. The trustees are represented at meetings of the Committee of Control and furnish to it information requested. The Austrian Government undertakes to furnish information required.

The total yield of the international loan was 879,800,000

[1] *The Economic Situation of Austria. Report* . . . by W. T. Layton and Charles Rist (C. 440 (1). M. 162 (1). 1925. II).

[2] Financial Reconstruction of Austria. *Dates and Conditions of Termination of Control* (C. 541. 1925. II).

[3] *Official Journal*, VII, p. 860. The proceedings of that meeting were notable and very impressive.

schillings. Of this amount 342,540,000 schillings were used for deficits, repayments and loan service and 332,500,000 schillings as cover for investment expenditures, leaving 217,600,000 schillings available at the end of control for allocation for productive expenditure.

Hungary. At the beginning of 1923, Hungary, in a desire to raise foreign loans on the security of certain revenues, approached the Reparation Commission in order to secure the necessary release of liens on certain of her assets and revenues, and at the same time expressed the desire that the League of Nations be asked to draw up a plan of financial reconstruction. On September 29, Rumania, the Serb-Croat-Slovene State and Czechoslovakia requested the Council of the League to authorize the Financial Committee to undertake at once any preparatory work necessary for the reconstruction of Hungary in the event of such a request from the Reparation Commission. The Reparation Commission on October 17 passed the necessary resolution.

The first stage of the League's work was completed by the Council in December, 1923. The Financial Committee had agreed upon the main lines of the scheme for financial reconstruction and its unanimous report was then accepted by the Council, which also approved the text of two protocols, along the same lines as the Austrian protocols, presented by its Hungarian committee.

By Protocol [1] No. 1 of March 14, 1924, the guaranteeing Governments declare "that they will respect the political independence, the territorial integrity and the sovereignty of Hungary" and "that they will not seek to obtain any special or exclusive economic or financial advantage calculated directly or indirectly to compromise that independence." The guarantors pledge loyal fulfillment of the agreements and to leave any questions at issue to the Council of the League. Hungary, for its part, undertakes to fulfill its treaty obligations and to abstain

[1] *Treaty Series*, XXV, p. 423–440.

from any act likely to prove prejudicial to the guaranties provided.

Protocol No. 2 sets forth in detail the program of reform, pledges Hungary to the conclusion of commercial agreements with neighboring states and lays down the conditions for the reconstruction loan, the duties of the commissioner-general, the committee of control and the trustees, provides for the assignment of revenues for the service of the loan and for keeping a special account, as well as for the establishment of a central bank of issue.

Jeremiah Smith, Jr., of Boston, Commissioner-General of the League of Nations for Hungary, assumed his duties on May 1, 1924. The foreign loan of 250,000,000 gold crowns was placed in June on the American, Italian, Swiss, Swedish, Dutch, Czechoslovak and Hungarian markets. The new bank of issue opened on June 24. The reconstruction schedule contemplated balancing the budget by June 30, 1926, but it showed a surplus after October, 1924, and was balanced a year and a half earlier than the schedule.

On June 10, 1926, the Council decided to suppress the office of commissioner-general at the end of that month. Controls similar to those applied in Austria entered into force.[1] As in Austria the currency had been absolutely stable and on January 1, 1927, a new currency was introduced, the pengö, equivalent to 12,500 old paper crowns, $0.1749 and 5.7176 to the dollar. The balance sheet of the National Bank was already expressed in pengös, with reserve amounting to 55% of note circulation as against a required 20%. On June 30, 1926, the reconstruction loan was valued at 266,884,211.63 gold crowns, of which there was a balance available of 119,459,845.14 for productive expenditure with the assent of the Council.

Refugee Settlement. The Greek refugee settlement loan under the protocol of September 19, 1924, amounting to £10,000,000 was floated in December, 1924.[2] The Bulgarian refugee settlement loan under the protocol of Sep-

[1] *Official Journal*, VII, p. 876.

[2] See p. 146.

tember 8, 1926, was issued in London and New York on December 21, 1926.[1]

Danzig. Three loans have been issued by the Free City under League auspices. The municipal loan of 1925 was virtually a private transaction but the banks inserted in the general bond provisions which required the assent of the Council.[2] By these the trustee may draw the attention of the Council to any breach by the municipality of the terms of the general bond. The Council may be called upon to settle disputes between the municipality, the financial institutions in charge of the loan and the trustee. The Free City may appeal to the Council if it considers that the trustee has abused his authority. The program of expenditure was subject to Council approval.

The two Danzig loans of 1927 differed in character. That of the Harbor Board was for productive purposes and the stipulation of the Council[3] was that it be issued after the municipal loan. The money required by the city was not for productive purposes, but 45% of it was to meet obligations arising out of the treaty of Versailles and the occupation of 1920. Special regulations for protection of a loan secured on the tobacco monopoly were worked out and the Council appoints the trustee, who annually reports to it.

Bulgarian Stabilization. On March 10, 1928, the Council approved the final plan for the Bulgarian stabilization loan of £5,000,000 which had been drawn up by the Financial Committee in agreement with the Bulgarian Government. The protocols were finally signed on September 8, 1928.[4] The loan is to be devoted to the repayment of the state debt to the National Bank in connection with the stabilization of the currency, to strengthening the position of the Agricultural Bank and the Central Cooperative Bank, the liquidation of budget arrears, the construction of roads and railways, and work in connection with the damage

[1] See p. 149.

[2] *Official Journal*, VI, p. 887, 967.

[3] *Ibid.*, VIII, p. 806.

[4] *Bulgarian Stabilization Loan. Protocol and Annexes* . . . (C. 338. M. 96. 1928. II. 32).

caused by earthquakes during the spring of 1928. The 7½% loan was issued November 21, 1928, at 97. The scheme in its general lines resembles that of the Greek stabilization loan. The Bulgarian Government undertakes to safeguard the independence of the National Bank from any political influence by the appointment by the Council of a technical adviser.

Greek Stabilization and Refugees. The exhaustion of the loan for refugee settlement work and the state of its currency caused Greece to raise the question of a loan for £9,000,000, one-third to be devoted to completing the refugee settlement program, one-third for budget arrears and one-third for the new bank of issue. Greek finances were in a complicated state, one outstanding question being with the United States. During the war, the United States Treasury extended to the Greek Government a credit which had not been exhausted. When the United States brought this indebtedness to its attention, the Greek Government stated that refunding was not due until the entire credit was turned over. Negotiations resulted in a United States Treasury agreement to advance the Greek Government, as part of an agreement refunding the total indebtedness, the sum of $12,167,000 at 4%, redeemable in 20 years. A bill to that effect was introduced into Congress. This American agreement accounts for £2,500,000 of the required amount, and in its technical aspects has the same securities as the loan issued under the auspices of the League. The loan protocol for the remaining £6,500,000 was signed at Geneva September 15, 1927,[1] and the loan issued in London, New York, Rome, Stockholm and Zurich in sterling and dollar bonds at 91, with 6%, on January 31, 1928. By the terms of the protocol the Greek minister of finance makes a semi-annual report to the League.[2] Greek currency was stabilized on a gold basis at 375 drachma to the pound sterling on May 14, 1928, on which date the new bank of issue was opened.

[1] *Greek Stabilisation and Refugee Loan. Protocol and Annexes* (C. 556. M. 198. 1927. II. 74).

[2] *Official Journal*, IX, p. 488, 1034, 1707.

Estonia. The Estonian Government in September, 1924, requested the League to send experts to study the economic and financial crisis in that country. The report recommended that the bank of Estonia should be made completely independent of the state and reorganized on the principles adopted for the banks of issue for Austria, Hungary and Danzig and that a mortgage institute be created to take over all Government long-term loan operations. These recommendations were accepted and a scheme of reform involving an international loan of £1,350,000 was arranged. The protocol signed December 10, 1926, provides for the appointment by the Council of a loan trustee and for a foreign adviser to the Estonian bank of issue.[1] The loan was issued in June, 1927.

Counterfeiting of Currency

The question of forged currency was discussed by the Council on June 10, 1926, as a result of a communication from the French Government. In this letter,[2] M. Briand drew attention to numerous cases in which the national currency of various countries had been forged. In his opinion, such forgeries were not only an attack upon the financial strength of the country whose currency was counterfeited; they might also, as a direct consequence, disturb international public order.

The Financial Committee, to which the question was referred, sent a questionnaire to 43 banks of issue, of which 20 replied in detail. An international convention was generally favored in order to homologate legislative measures and cooperation between the judicial and police authorities. The Mixed Committee authorized by the Council on December 10 was made up of four delegates of banks of issue, four specialists in international criminal law and three prosecution authorities, the latter two groups nomi-

[1] *Banking and Currency Reform in Estonia, Protocol* (C. 227. M. 89. 1927. II. 45), *Treaty Series*, LXII, p. 277.

[2] *Official Journal*, VII, p. 950.

nated by seven Governments. The draft convention[1] and report were circulated to Governments for consideration on December 6, 1927,[2] and the conference to prepare it for signing is set for opening at Geneva on April 9, 1929.

Mixed Greco-Bulgarian Emigration Commission

The operation of the convention of November 27, 1919, for reciprocal emigration between Bulgaria and Greece has from the beginning been managed by a commission appointed by the Council of the League.[3] The extensive interchange of population resulted in financial arrangements for the liquidation of properties abandoned by Bulgarians or Greeks who had elected to take up residence in the country of their nationality. A plan of payment for the properties involved was adopted on December 8, 1922, and its liquidation has been effected through Greek and Bulgarian 6% loans, the final certificates of which were due for amortization as from January 1, 1925. Documents presented to the Council on September 3, 1927, indicated that of a total of 40,000 claims presented by emigrants, the number of liquidations had risen to 10,600 and that the question of providing satisfactory security for the bonds given in liquidation to emigrants had definitely arisen.[4]

The problem was referred to the Financial Committee which worked out an agreement, signed at Geneva on December 9, 1927, by the representatives of Bulgaria and Greece and the president of the Mixed Commission.[5] By this arrangement, the provisional certificates are to be exchanged for final certificates and the funds resulting from the liquidation of properties — some $35,000,000 — are to be deposited in the National Bank of Bulgaria and the

[1] *Report and Draft Convention*, p. 18 (C. 523. M. 181. 1927. II. 70).

[2] *Official Journal*, IX, p. 121.

[3] See p. 171.

[4] *Official Journal*, VIII, p. 776, 885.

[5] Financial Committee. Report . . . of 29th Session, p. 5 (C. 643. M. 211. 1927. II. 75).

Greek Bank of Issue as sinking funds. Semi-annual drawings result in the owners of the liquidated properties recovering their money.

Central Bank Statistics

At the suggestion of the Financial Committee, representatives of the Information and Statistical Services of 25 banks of issue met from April 11 to April 17, 1928, in Paris at the Banque de France. The banks represented were: The National Banks of Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, England, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Norway, Netherlands, Poland, Rumania, Serb-Croat-Slovene State, Spain, Sweden, and Switzerland, the Federal Reserve Bank of New York and the Federal Reserve Board.

The discussions were directed to the examination of the characteristic features of the different money markets, the volume of money and credit, clearing statistics, the velocity of circulation, indices of economic activity, the definition of the different rates of money and the manner in which these rates are quoted. In all these discussions the primary object was to find means of rendering monetary statistics more comparable and easy of interpretation, and how such information might be exchanged between banks.

Double Taxation

The first step of the Financial Committee in solving the problem of double taxation was the appointment of a Committee of Economic Experts, who presented a comprehensive report on April 3, 1923,[1] in which was developed the full theory of this first "financial problem of universal importance"[2] to be handled by the League. The Financial Committee next organized a committee of government tax-

[1] League of Nations, E. F. S. 73/F. 19.

[2] Resolutions and Recommendations . . . Sixth Session (*Official Journal, Spec. Sup.* No. 32, p. 15.

ation officials[1] to study the subject from the administrative point of view and in relation to the problem of fiscal evasion.

In January, 1927, the result of this examination of the problem was studied by a committee of taxation experts,[2] designated by and acting for their Governments, who developed two draft conventions on double taxation and two others on fiscal evasion. The question was still so complicated that it was deemed advisable to summon in October, 1928,[3] a conference of fiscal experts, who revised the drafts before them with the intention of having them in shape to submit to a diplomatic conference for the perfection of conventions in 1929 or 1930.

2. Organization for Communications and Transit.

Art. 23 of the Covenant provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon the Members of the League: (*e*) will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all Members of the League."

On February 13, 1920, the Council proposed that the Committee of Ports, Waterways and Railways of the Peace Conference, together with representatives of states having special interest in the subject, undertake a preliminary survey of the problem involved in carrying out this provision. A conference was held for that purpose in the summer of 1920 at Paris and the committee transformed itself into a provisional committee on communications and transit of the League.

The proposals of the committee called for a general conference to prepare international agreements and recommendations suitable for embodiment in national laws, and draft resolutions to be submitted to the Assembly.

[1] League of Nations, C. 115. M. 55. 1925. II and C. 216. M. 85. 1927. II. 40.

[2] *Ibid.*, C. 216. M. 85. 1927. II. 40.

[3] *Ibid.*, C. 495. M. 197. 1928. II. 46.

It also recommended a permanent committee to sit continuously and act both as the bureau of the conferences and as a technical advisory body. These recommendations were approved by the Council and the First Assembly.

Conferences

The General Conference on Freedom of Communications and Transit is held at intervals of three years. Conferences have been held as follows:

1. Barcelona, March 10–April 20, 1921; 44 states represented.
2. Geneva, November 15–December, 1923; 41 states represented. The United States sent an "official observer." Organizations represented in an advisory capacity were: International Chamber of Commerce, Central Railway Transport Office, the International Union of Railway Administration, the four International River Commissions for the Danube, the Elbe, the Oder and the Rhine, the Hydraulic Danube Commission, and the League's Advisory Committee for Communications and Transit.
3. Geneva, August 23–September 2, 1927; 41 states represented, including the United States and three other non-Members of the League. There were also present in an advisory capacity, besides representatives of the Saar Governing Commission, delegates from the following:

Members of the Advisory and Technical Committee for Communications and Transit, Experts appointed by the Advisory and Technical Committee for Communications and Transit, Permanent Technical Hydraulic System Commission of the Danube, International Elbe Commission, International Oder Commission, Central Commission for Rhine Navigation, International Railway Union, International Central Railway Transport Office, International Chamber of Commerce, International Shipping Conference, International Federation of Transport Workers, Christian Union of Transport Workers, International Labor Office, International Broadcasting Union, International Air Traffic Association, International Commission for Air Navigation, International Technical Committee of Legal Experts for Air Navigation.

Advisory and Technical Committee

The Advisory and Technical Committee on Communications and Transit was organized by the Barcelona Con-

ference in accordance with the resolution of the First Assembly. The committee is a consultative and technical body to assist the Council and the Assembly of the League in discharging its functions. It may arrange for any future conference and prepare its agenda; it exchanges all requisite information with the appropriate ministries of the Members of the League; it is intrusted with the investigation of any disputes which may be referred to the League under Arts. 336, 376 and 386 of the treaty of Versailles and corresponding articles in the other treaties of peace, and will endeavor to adjust such disputes whenever possible by conciliation between the parties; in the event of such disputes being brought before the Permanent Court of International Justice, the committee may be called upon to assist the Court.[1]

The committee is governmental, being composed of one representative for each Member of the League represented permanently on the Council, together with (now 13) Members appointed as determined by the conference, taking into account as far as possible technical interests and geographical representation. The total membership shall not exceed one-third of the Members of the League of Nations. The states represented have been:

1921	1924	1927
France	France	France
Great Britain	Great Britain	Germany
Italy	Italy	Great Britain
Japan	Japan	Italy
Belgium	Austria	Japan
Brazil	Belgium	Argentina
Chile	Chile	Austria
China	China	Colombia
Cuba	Colombia	Greece
Denmark	Cuba	Latvia
Estonia	Greece	Netherlands
Netherlands	Lithuania	Panama
Poland	Norway	Portugal
Spain	Poland	Salvador

[1] Conférence de Barcelone, *Comptes rendus et textes relatifs au Règlement d'organisation. . .*, p. 58–60.

1921	1924	1927
Switzerland	Rumania	Serb-Croat-Slovene State
Uruguay	Salvador	Siam
	Spain	Sweden
	Venezuela	Switzerland

The committee is engaged in one of the most technical fields with which the League concerns itself. As a consequence it divided into seven committees in 1922. To these have been added experts on specific subjects and a series of temporary committees has further been created.[1] The work engaging the attention of the committee is indicated by that of the committees. The committees maintain close touch with many technical international organizations, especially those dealing with air traffic.

The third conference made an exhaustive study of the collection and exchange of general information on communications and transit. The United States delegation took an active and important part in this work, the head of the delegation being chairman of the committee. The resolution consisted of a general decision and of detailed suggestions as to the kind of information which might be collected on ports and maritime navigation, inland navigation, railways, electric questions, road traffic and air navigation. This information should bear upon agreements between states, bills published, acts and regulations in preparation; it should further include general data as to work planned or proceeding, statistics, etc.[2]

Conference of Press Experts

The Conference of Press Experts met at Geneva August 24–29, 1927. It originated from a proposal submitted by the Chilean delegation to the Assembly of 1925. The conference was attended by 63 experts, 20 assessors and 35 technical advisers from 38 countries, members and non-

[1] For list see *Monthly Summary*, No. 1 of each year.

[2] *Third General Conference on Communications and Transit, Vol. II*, p. 52 (C. 558 (*a*). M. 200 (*a*). 1927. VIII. 15[II]).

Members of the League, representing not only the different continents, but also the various categories of press interests — newspaper proprietors, news agencies, press bureaus and journalists. Its debates resulted in the adoption of resolutions which cover a large part of the technical work of the press.[1]

The first series of these resolutions needed exhaustive technical study, and the Council requested the Secretary-General to ask the Organization for Communications and Transit to continue this technical study with the help of press associations interested in these questions.

As to customs regulations applicable to newspapers the Committee at its 12th session advised summoning a special conference of experts to submit to European Governments definite recommendations and decided to ask Governments levying special duties whether it was possible to abolish them. The Committee expected to have in hand before 1929 the opinion of Governments with regard to the transport of newspapers and periodicals by rail. Rates for air transport are being examined. Other questions under examination are the reduction of railroad tariffs, passport visas and identity cards. A Special Committee of Telegraphic and Press Experts in May, 1928, submitted recommendations to the Committee concerning priority for press telegrams and wireless messages, "urgent" press telegrams and wireless messages, long-distance telegraph and wireless communications, regional telegraphic agreements, telephone rates, the authorization to receive press messages by wireless, wireless rates, code telegrams, and the importance of telegraphic and wireless communications between different continents.

A second series of resolutions of the conference depends on the action of Governments for realization. The Council on December 7, 1927,[2] asked the Governments what action could be taken on the resolution respecting the protection of news:

[1] *Conference of Press Experts. . . . Final Resolutions . . .* (A. 43. 1927, 8).

[2] *Official Journal*, IX, p. 136.

The Conference of Press Experts lays down as a fundamental principle that the publication of a piece of news is legitimate subject to the condition that the news in question has reached the person who publishes it by regular and unobjectionable means, and not by an act of unfair competition. No one may acquire the right of suppressing news of public interest.

a. Unpublished News. The conference is of opinion that full protection should be granted to unpublished news or news in course of transmission or publication in those countries in which such protection does not already exist. . . .

There shall be no preferential right in official news issued by a Government or Government Department or by an official representing a Government or Government Department. All such news may be published without restriction in full or in part.

Newspapers, press agencies, press bureaus, and newspaper correspondents and representatives shall have free and equal opportunity of access to and transmission of such news.

b. Published News. In view of the widely differing conditions obtaining in various countries, the conference is of opinion that the question of the protection of published news, whether reproduced in the press or by broadcasting, is one for the decision of the respective Governments concerned, and recommends that any Governments to whom application in this respect is made by its country's press, should sympathetically consider the advisability of granting suitable protection. . . .

Governments were asked what action they intended to take on resolutions respecting professional facilities for journalists, including special resolutions on travel tours, schools for journalists, scholarships, double taxation of journalists living abroad, reductions of fares, equality of treatment for foreign journalists and facilities for inquiry afforded to foreign journalists.

The Council drew the special attention of Governments to the following passage in the resolution on censorship in peace time:

However, so long as, contrary to the principle of the liberty of the press, censorship still exists in any country, the conference asks for the following minimum guaranties:

1. That telegrams submitted to censorship should be examined by specialists and dispatched with the greatest promptitude possible.

2. That journalists should be informed of the instructions given to these specialists so as to enable them to make their own dispositions.

3. That they should be informed of the passages suppressed in their dispatches as well as of exceptional delays in their transmission, and that they should be given the option of sending or withholding telegrams which have been either censored or delayed.

4. That the transmission charges paid in advance for telegrams which have been either censored or delayed should be reimbursed in proportion to the number of words suppressed.

5. That a complete equality of treatment should be granted to all journalists without exception.

Lastly, the Council itself took note of the resolutions dealing with courses for journalists at Geneva, the establishment in newspapers of a special heading on the League of Nations, regional press understandings, and two others on the publication or distribution of tendencious news and on the press combating hatred between nationalities.

Freedom of Transit

The convention and statute on freedom of transit[1] signed at Barcelona, April 20, 1921, has been in force since October 31, 1922. The statute defines traffic in transit as persons, baggage and goods, as well as any means of transport, which is taken across the territory of a state on a complete journey which begins and terminates beyond the frontier of the state in question. The contracting states engage to facilitate such traffic and agree to make no distinction respecting it on the basis of "nationality of persons, the flag of vessels, the place of origin, departure, entry exit or destination, or any circumstances relating to the ownership of goods" or means of transport. Traffic shall not be subject to special duties on account of transit. Tariffs applicable to traffic in transit "shall be so fixed as to facilitate international traffic as much as possible" and

[1] *Treaty Series*, VII, p. 11, Ratifications: Albania, Austria, Belgium, British Empire (including Newfoundland), Bulgaria, Chile, Czechoslovakia, Denmark, Estonia, Finland, France, Greece, India, Italy, Japan, Latvia, Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Norway, Poland, Rumania, Sweden, Switzerland. Accessions: Federated Malay States (Perak, Selangor, Negri Sembilan and Pahang), Non-Federated Malay States (Brunei, Johore, Kedah, Perlis, Kelantan and Trengganu), Palestine (British mandate), Free City of Danzig, Germany, Hungary, Peru, Siam. Subject to ratification: Peru.

are to be "reasonable as regards both their rates and the method of their application."

The statute does not bind contracting states to afford transit for passengers whose admission to its territories is forbidden or for goods whose importation is prohibited on grounds of public health or security or as a precaution against disease of animals or plants. The statute continues in force in time of war so far as the rights and duties of belligerents and neutrals permit. Deviations from its provisions are permissible in exceptional cases of "an emergency affecting the safety of the state or the vital interests of the country." It does not abrogate treaties in force with respect to transit or the withdrawal of facilities greater than those provided for.

Passports and Identity Certificates. The provisional committee convened at Paris on October 15–21, 1920, a Conference on Passports, Customs Formalities and Through Tickets. This conference was convinced "that the many difficulties affecting personal relations between the peoples of various countries constitute a serious obstacle to the resumption of normal intercourse and to the economic recovery of the world." The conference passed a series of resolutions [1] with the primary purpose of securing uniform practice in the various states. These proposals, which were of an administrative character, greatly simplified travel among the many states accepting them.

In the Second Passport Conference 38 Governments were represented at Geneva, May 12–18, 1926. The program was based on a resolution of the Sixth Assembly and in addition aimed to carry out resolutions of the 1924 Rome Emigration Conference. The conference adopted a series of recommendations aiming principally at technical improvements in passports of the international type and in methods of establishing passports; the prolongation of the duration of their validity, and its extension to all foreign countries, or to as large groups of countries as possible; the reduction of passport fees, which should in no case

[1] *Official Journal*, I, 8, p. 58.

exceed the expenditure entailed by their issue; and the simplification of frontier control.

The conference [1] was in favor of the total abolition of exit visas and recommended that the suppression of entrance and transit visas should be made as general as possible by means of interstate agreements. It also recommended that facilities should be granted to travelers, enabling them to break their journey in the countries through which they passed, more especially in ports of call, even though their passport should bear no transit visa; that visas should be valid for two years, or for a period equal to that of the validity of the passport, and that they should be good for an unlimited number of journeys and for all frontiers.

It was further recommended that the visa fee should not exceed:

(1) 5 gold francs for entrance visas valid for a single journey;

(2) 10 gold francs for entrance visas valid for several journeys;

(3) 1 gold franc for transit visas of unlimited validity.

The conference considered that fees should not vary according to the nationality of the passport-holder, his itinerary, or the flag of the ship upon which he embarked. It recommended that the issue of passports, identity papers and visas should be organized so as to simplify formalities and to spare travelers and emigrants long and expensive journeys. Visas should be delivered within the shortest possible time. The conference recommended that frontier control should be carried out, whenever possible, when the trains were in motion; should this be impossible, during the stoppage of trains at one of the two frontier stations, and that police inspection by the two countries concerned should be effected simultaneously or follow rapidly upon one another. It drew attention to the fact that these improvements would be of little value unless agreements were

[1] See *Minutes of the Plenary Meetings* (1926. VIII. 4) and *Final Act* (1926. VIII. 2).

also concluded for the accomplishment of customs formalities in the same conditions.[1]

In connection with refugee problems, Fridtjof Nansen, the High Commissioner, inaugurated a system of identity certificates which has served a useful purpose for hundreds of thousands of Russian, Armenian and other refugees. At a small technical conference at Geneva on July 3–5, 1922, 16 governments agreed upon the form of a certificate of identity and rules for its issuance for the purpose of enabling Russian refugees both to remain in the countries where they found themselves and to travel.[2]

While this system worked well, the problem of identifying persons without nationality status continued. The Second Passport Conference in its final act, signed at Geneva on May 18, 1926, incorporated recommendations on this subject.[3] The complications of the problem resulted in summoning a committee of experts which held two sessions prior to the Third General Conference on Communications and Transit. The latter on September 2, 1927, adopted four recommendations [4] to establish an international system of identity and traveling documents for persons without nationality or of doubtful nationality.

Ports and Maritime Navigation

The Permanent Committee for Ports and Maritime Navigation is a double one with specialist members for the two subjects.

The Committee for Ports has as its special concern the development of the régime laid down in the convention and statutes on international régime of maritime ports.

[1] Replies from Governments on the application of the recommendations are in *Official Journal*, IX, p. 1329, 1414.

[2] *Official Journal*, III, p. 927. The countries which adopted the above arrangement were: Austria, Bolivia, Bulgaria, Chile, China, Denmark, Estonia, Finland, France, Germany, Great Britain, Greece, Guatemala, Hungary, Italy, Japan, Latvia, Lithuania, Netherlands, Norway, Poland, Portugal, Rumania, Sweden, Switzerland, Union of South Africa, United States of Mexico.

[3] *Official Journal*, VII, p. 1095.

[4] *Ibid.*, VIII, p. 1611; for replies, IX, p. 1325, 1415.

The Committee for Maritime Navigation has given special attention to safety of life at sea, which was the subject of an international convention concluded at London in July, 1914, following the *Titanic* disaster, but which was not generally ratified. The international ice patrol of the North Atlantic was provided for by the convention, but has been conducted on the initiative of the United States alone in the interval. The committee, after extensive studies of the problem, with the aid of the International Hydrographic Bureau, brought the matter to a position where a conference to revise and complete the 1914 convention is scheduled for 1929.

A Technical Committee for Maritime Tonnage Measurement was set up in 1926 to bring into effect uniform practice. While the British regulations have been almost universally adopted, the application of them in different countries varies, and there are diverse methods of calculating gross and net tonnage.

A temporary Technical Committee on Buoyage and Lighting of Coasts has been developing methods to improve and unify such aids to navigation as lighthouse signals, buoyage regulations by day and by night, wireless or radio beacons and coast and port signals, including storm, ice, tide and high sea signals.

Navigable Waterways. The convention and statute on the régime of navigable waterways of international concern [1] signed at Barcelona April 20, 1921, has been in force from October 31, 1922. The statute defines such waterways as:

(1) "All parts, which are naturally navigable to and from the sea, of a waterway which in its course . . . separates or traverses different states," as well as waterways connecting therewith which separate or traverse different states.

(2) Natural or artificial waterways or parts thereof expressly placed under the régime of the general convention by treaty agreements. On the parts of such water-

[1] *Treaty Series*, VII, p. 35.

ways under their authority, the contracting states "accord free exercise of navigation to the vessels flying the flag of any one of the other contracting states."

(3) Navigable waterways which are, or may in the future be, controlled by international commissions on which nonriparian states are represented.

The nationals, property and flags of all contracting states shall be treated on a footing of perfect equality in all respects. No distinction shall be made respecting the nationals, property or flags of riparian and nonriparian states, and no exclusive rights of navigation shall be accorded.

Exceptions of a practical character are stipulated. No dues, other than those imposed in the interest of navigation, shall be levied anywhere on international waterways. The rules of the statute respecting freedom of transit apply to transit on international waterways.

In the ports on these waterways the nationals, property and flags of all contracting states enjoy a treatment equal to that accorded to the trade of the riparian state controlling the port. Riparian states are bound to refrain from all measures likely to prejudice the navigability of the waterway or to reduce the facilities for navigation. Equitable arrangements are made for the upkeep of works affecting navigability and for restrictions on navigation necessitated by local conditions. Allocation of expenses for the upkeep of facilities to navigation are provided for in detail. In this connection, treaties establishing international commissions are to be appropriately applied.

Riparian states may issue customs, police, sanitary and administrative regulations respecting their respective portions of the waterways, but the great desirability of agreement rendering them uniform is recognized. The statute continues in force in time of war so far as the rights and duties of belligerents and neutrals permit. It does not impose upon a contracting state "any obligation conflicting with its rights and duties as a Member of the League of Nations."

An additional protocol [1] accords equality of treatment for communication on all navigable waterways under national control for commerce not involving transshipment.

Maritime Ports. The convention and statute on the international régime of maritime ports [2] and the protocol of signature, signed at Geneva on December 9, 1923, entered into force on July 26, 1926. The statute defines maritime ports for its purposes as all those "which are normally frequented by seagoing vessels and used for foreign trade." Contracting states reciprocally grant equality of treatment with its own vessels as regards freedom of access to such ports, their use and the full enjoyment of the benefits as regards navigation and commercial operations which it affords to vessels, their cargoes and passengers. Equality of treatment covers facilities of all kinds such as allocation of berths, loading and unloading facilities and all dues and charges levied. Measures required for the proper conduct of the business of the port are fully within the jurisdiction of the competent authorities, provided they comply with the principle of equality of treatment. Dues and charges shall be of public record, and customs and other analogous duties are imposed without any distinction of flag. Unless special reasons justify an exception, customs duties in a maritime port may not exceed such duties levied on other frontiers.

The statute implies reciprocity, and contracting states reserve the power of suspending its benefits with reference to vessels of a contracting state which does not effectively apply its provisions. In case of dispute over such action, either state may refer the matter to the Permanent Court of International Justice for adjustment under summary procedure.

The statute does not apply to the maritime coasting trade, nor to fishing vessels or their catches. States reserve the right to make such towage arrangements as they see fit, to organize and administer pilotage services under

[1] *Treaty Series*, VII, p. 65.
[2] *Ibid.*, LVIII, p. 285.

their own rules, and to enact special legislation respecting the transport of emigrants. The statute applies both to publicly and privately controlled vessels, but not to warships or vessels performing police or administrative functions. Special treaty rights conferred upon a foreign state within a defined area of a maritime port for the purpose of facilitating transit are not to be regarded as inequality of treatment, but the benefiting state shall not acquire thereby advantages with respect to the treatment of the vessels of third states trading with the beneficiary.

Exceptions from the rules in case of an emergency affecting the safety of the state and the maintenance of prohibitions respecting the entrance of forbidden passengers and goods are set forth. The statute continues in force in time of war so far as belligerent and neutral rights and duties permit. Applicable provisions of the statute on the international régime of railways are incorporated in the agreement.

Maritime Flag. The declaration recognizing the right to a flag of states having no seacoast, signed at Barcelona, April 20, 1921, is very simple. The contracting states "recognize the flag flown by the vessels of any state having no seacoast which are registered at some one specified place situated in its territory; such place shall serve as the port of registry of such vessels." [1]

Inland Navigation

The Permanent Committee for Inland Navigation began work in 1924. In 1922, the Advisory and Technical Committee passed a resolution asking the various European river commissions for suggestions respecting the measurements of tonnage for vessels employed in inland navigation. A convention of 1898 and a supplementary arrangement of 1908 were no longer entirely applicable. A Technical Committee produced a draft convention, and the Council convoked a conference in Paris, November 20–27, 1925, which drew up a convention.

[1] *Treaty Series*, VII, p. 73.

The reports made by Walker D. Hines on the Danube and Rhine discussed below called attention to the diversity of private law applicable to inland navigation. As a consequence, the Permanent Committee set up a Committee on Private Law in Inland Navigation, which has been collecting comprehensive information regarding such subjects as the nationality of vessels, ownership, mortgages and privileges, rules applying to collisions, contracts of employment and labor conditions.

In addition, this field of work called for the establishment of a Committee on Statistics of Inland Navigation, which was appointed by the Advisory Committee on July 1, 1924, and serves the whole field of the Permanent Committee.

Danube and Rhine Inquiries. A postwar difficulty was the dislocation of navigation on the Danube, partly owing to the redivision of its banks among several states and the new trade regulations which they had imposed. The Danube has been under international control since the establishment of the European Commission of the Danube in 1856. This commission has jurisdiction over the maritime Danube from Braïla to Sulina. In addition, the Danube International Commission has jurisdiction over the river upstream from Braïla. Together they are charged with keeping the channel clear and maintaining navigation facilities.

In 1920 the disuse of the river during the World War was found to have permitted the formation of shoals seriously interfering with navigation. At the instance of the Committee for Communications and Transit, Walker D. Hines, former director-general of the United States Railroad Administration and later arbitrator for questions raised in the peace treaties concerning tonnage distribution on European waterways, was appointed to investigate the problems involved. Major Brehon B. Somervell, Corps of Engineers, U. S. A., was appointed to assist him and conducted a preliminary investigation before Mr. Hines' arrival at Geneva in April, 1925.

The Hines report on Danube navigation [1] examined the conditions of traffic, the restrictions to international trade imposed by riverain states, the problems of maintaining navigation, the extent and mode of operation of the navigation companies, the complications of frontier formalities and the relation between Danube transportation and connecting systems. The extent of existing friction, the lack of capital and other conditions were carefully examined. The report afforded a sound analytical basis for improvement of conditions, which have since been studied.

Mr. Hines was also appointed to make a similar study of Rhine navigation,[2] that river being also international in character. He found that navigation conditions on the Rhine were principally due to the railway policy of riparian states and that the development of navigation was unfavorably influenced by the character of taxes and customs formalities. As in the case of the Danube, the analysis of conditions opened the way to their improvement.

Vessel Measurement. The convention regarding the measuring of vessels employed in inland navigation [3] and protocol of signature, signed at Paris November 27, 1925, entered into force from October 1, 1927.[4] A technical annex to this convention lays down in detail the rules for the measurement of vessels employed in inland navigation, including forms of certificate and distinguishing letters for vessels. Measurement certificates issued by the competent authorities of a contracting state under these regulations shall be acceptable to the authorities of other contracting states as equivalent to their own certificates. State regulations for the execution of the provisions of the convention shall be communicated to other contracting states three months before their application. Parties to the convention undertake to measure any vessel for which such a

[1] League of Nations, C. 444 (*a*). M. 164 (*a*). 1925. VIII.

[2] *Ibid.*, C. 444. M. 164. 1925. VIII.

[3] *Ibid.*, C. 107. M. 50. 1926. VIII 1. and C. L. 136. 1926. VIII. 11.

[4] *Treaty Series*, LXVII, p. 63. Ratifications: Austria, Belgium, British Empire (for Great Britain and Northern Ireland), Bulgaria, France, Germany, Hungary, the Netherlands, Rumania, Spain, Switzerland.

request is made. A measurement certificate is valid for ten years, and a demand for remeasurement may not be made within that time unless extensive repairs or alterations in the vessel have been made. Lists of vessels measured shall be communicated to all contracting states under such conditions, that all registration officers shall have up-to-date information. Notification of the loss of any vessel shall be made within three months of the establishment of that fact.

Transport by Rail

The Permanent Committee for Transport by Rail began work with special reference to European problems already covered by international agreement. Transportation of merchandise by railroads was covered by a convention signed at Bern, October 14, 1890, with additions in 1893, 1895, 1898, and 1906; while on May 15, 1886, a convention regarding the sealing of railway trucks subject to customs inspection, and another regarding a technical standardization of railroads, were signed.[1] The subcommittee has secured more general acceptance of these conventions, and approved the principles agreed on at the Portorose Conference of Succession States November 23, 1921.[2]

In 1926, the committee gave attention to public railroad facilities for the League as a consequence of the possible need for rapid movement, to which attention was drawn in the Bulgaro-Greek frontier incident. Various suggestions were made, and it was especially noted that great improvement in railroad connections could be made.

The committee, while studying such questions as the nomenclature of railway tariffs, the unification of railroad statistics and of transport documents, has devoted its attention to the problems of combined transport since the entrance of the convention into force. It has set up a Committee on Combined Transport, a Subcommittee on Combined Transport between Railways and Waterways

[1] Denys P. Myers, *Manual of Collections of Treaties*, p. 499, 504.

[2] *International Conciliation*, Bulletin No. 176.

and another Subcommittee on Combined Transport between Railways and Air Navigation. In addition, there is a Committee on Competition between Railways and Waterways. All of these are studying the appropriate phases of facilitating through traffic, devoting their attention first to the unification of contracts for journeys over more than one type of transportation.

Régime of Railways. The convention and statute on the international régime of railways [1] and protocol of signature, signed at Geneva December 9, 1923, came into force on March 23, 1926. The statute, which constitutes the technical agreement, is divided into six parts devoted to the interchange of international traffic by rail, reciprocity in the use of rolling stock and its technical uniformity, relations between the railway and its users, tariffs, financial arrangements between railway administrations in the interest of international traffic and general regulations. The contracting states undertake to provide for a through service connecting the existing lines "wherever the needs of international traffic so require." In case existing connections are not sufficient the reinforcement of existing lines or the construction of new lines to effect junctions are to be arranged without delay. A system of common frontier stations is contemplated and mutual facilities at separate frontier stations are provided for. States undertake to give reasonable facilities to international traffic and to refrain from all discrimination of an unfair nature with regard to it. An obligation to improve time-table connections is recognized, and the states agree to encourage the establishment of through trains or through carriages. Customs, police and passport formalities shall be adjusted so as to create "the least possible hindrance and delay."

Shipment of baggage through customs under seal is

[1] *Treaty Series*, XLVII, p. 55. Ratifications: Abyssinia, Austria, Belgium, British Empire, Denmark, Germany, India, Japan, Netherlands, New Zealand, Norway, Poland and Free City of Danzig, Rumania, Siam, Sweden, Switzerland. Accessions: Newfoundland, Southern Rhodesia, British Guiana, British Honduras, Brunei, Federated Malay States, Gambia, Gold Coast, Hong-Kong, Malay States (Unfederated), Nigeria, Northern Rhodesia, Nyasaland, Palestine, Sierra Leone, Straits Settlements, Tanganyika Territory. Subject to ratification: China, Colombia, Panama.

encouraged. Railway administrations are urged to enter into agreements to facilitate the exchange and reciprocal use of rolling stock on roads of the same gauge. With a view to facilitating such use, agreements for the technical uniformity of rail lines are to be made. (Many of these are in force.) Standardization in contiguous countries is especially urged.

Contracting states agree to facilitate agreements permitting the use of single contracts for international journeys over different lines and in different states. Conditions to be included in such contracts for both passengers and their baggage and for freight are set forth. A set of principles is laid down respecting railroad tariffs with a view to securing the greatest possible uniformity of rates, incidental charges and the conditions under which they shall be applied. International traffic tariffs are to be reasonable and not to discriminate unfairly against other contracting states, their nationals or their vessels; at the same time states retain full freedom to frame their tariffs under their national legislation.

The business arrangements between railway administrations are not to hamper the working of international traffic and the application of through ticket contracts. Direct financial relations between railroad administrations in such matters are provided for in detail.

General regulations permit deviation from the general principles in case of emergencies affecting the safety of the state, but only to the extent necessary under the circumstances. Contracting states are not obliged under the statute to insure the transport of passengers whose admission into its territories is forbidden or of goods against which importation restrictions run. Precautionary measures against dangerous freights are authorized. Discrimination under these heads is not permissible, but the transit, export or import of articles prohibited by general agreement such as opium, arms, etc., is excepted. The statute does not entail the withdrawal of facilities greater than those provided in it, nor any prohibition of granting

greater facilities in the future. It continues in force in time of war so far as belligerent and neutral rights and duties permit.

Electric Questions

The Permanent Committee on Electric Questions early concerned itself with bringing international agreement respecting wireless communication up to date. The 1912 convention [1] no longer represented the adequate minimum of international agreement, and conferences held in Paris and Washington in 1920 had brought no agreement. A temporary Committee of Experts on Telegraphic Questions began meeting in London in July, 1923, to mature plans for "an international conference to deal with the general body of international radiotelegraphic problems." [2] By 1925, preparations were made for a telegraphic conference meeting in Paris, September 1, 1925, and a radiotelegraphic conference, which was convened in Washington in 1927.

The Permanent Committee has developed machinery for constituting an international center of information with a view to promoting interstate cooperation with respect to the development and the technical aspects of the transmission in transit of electric power and the development of hydraulic power in connection with the conventions dealing with those subjects.

The question of improvement of League telegraphic and telephonic communications in times of crisis has occupied the attention of the Committee since 1926.[3] Examination of the existing conditions, preparation of a list of communication routes, provision for special handling of messages directed to the League and other features of the problem have been extensively studied. A Committee of Experts in 1928 examined the technical aspects of constructing a League wireless station.[4] Switzerland has

[1] *Treaties, Conventions . . . between the United States and other powers, III*, p. 3048.
[2] *Official Journal*, IV, p. 682.
[3] League of Nations, C. C. T. 310. 1927. VIII. 6.
[4] *Ibid.*, C. 141. M. 32. 1928. VIII. 4.

taken an active part in this matter, which is to be the subject of a report to the 1929 Assembly.

Transit of Power. The convention relating to the transmission in transit of electric power,[1] signed at Geneva December 9, 1923, entered into force from July 26, 1926. Each contracting state undertakes, on the request of any other contracting state, to negotiate for agreements to insure the transmission in transit of electric power across its territory. If such an agreement should be seriously detrimental to the national economy or security, representations to such effect may be made to the applicant state. Such agreements may include the general conditions for the construction and upkeep of power transmission lines, equitable remuneration for the state across whose territory the transmission takes place, the methods for exercising technical control and securing public safety, the means to be used for communications in connection with the working of the power lines, and the procedure for settling disputes in regard to the interpretation and application of the agreements.

It is recognized that the construction of lines and installations ancillary thereto shall be subject to the legal and administrative provisions of the state in which they are erected. The convention does not oblige any state to exercise powers of expropriation. The convention continues in force in time of war so far as belligerent and neutral rights and duties permit.

Hydraulic Power. The convention relating to the development of hydraulic power [2] affecting more than one state and protocol of signature, signed at Geneva December 9, 1923, entered into force from June 30, 1925. "Within the limits of international law, this convention does not affect the right of each state to carry out on its own territory operations for the development of hydraulic power which it may consider desirable." However, should reasonable development of hydraulic power involve inter-

[1] *Treaty Series*, LVIII, p. 315.
[2] *Ibid.*, XXXVI, p. 75.

national investigation, the contracting states agree to a joint investigation to arrive at a solution most favorable to their interests as a whole and, if possible, to draw up an equitable scheme of development. Contracting states obligate themselves to enter into negotiations with a view to concluding agreements to allow for the development of hydraulic power partly on the territory of each of the contracting states concerned. If a hydraulic power development might cause serious prejudice to one state, the states concerned shall enter into negotiations calculated to allow such operations to be executed.

The agreements contemplated may provide for general conditions for the establishment, upkeep and operation of works, equitable contributions by the states concerned toward expenses, financial arrangements, methods for exercising technical control and for insuring security, public safety, protection of sites, regulation of the flow of water, protection of the interests of third parties and the settling of disputes. Works in particular states are subject to their laws and regulations applicable to similar works. The development of hydraulic power on international waterways is subject to all rights and obligations resulting from the general convention establishing their status. The convention continues in force in time of war so far as belligerent and neutral rights and duties permit.

Road Traffic

The Permanent Committee of Inquiry on Road Traffic first met in October, 1924, to draft a revision of the convention signed at Paris on October 11, 1909, with respect to international circulation of motor vehicles.[1] A new conference attended at Paris by 53 countries April 20–24, 1926, embodied in a new convention the principal clauses of a draft [2] drawn up by the committee.

The committee has concentrated attention on the uni-

[1] 102 *British and Foreign State Papers*, p. 64.

[2] Early draft in *Official Journal*, VI, p. 978.

fication of traffic regulations in the interests of safety. Automobile clubs are cooperating with this effort. One resolution recommended the general adoption of right-hand traffic as the most expedient and feasible solution of the problem in European states, this rule having already been applied by the majority of those states. The committee is examining the question of road signals[1] and many incidental problems connected therewith in the light of the rules and habits in force throughout the world.

Calendar Reform

The inconveniences of the present calendar are keenly felt by economic life as a whole and particularly by transport. The International Chamber of Commerce in 1921 and the International Astronomical Union in 1922 advocated reform. A preliminary investigation showed that the reform of the calendar necessarily involved as a first step a consultation of the religious authorities interested, in order to determine to what extent solutions were possible.

A Special Committee of Inquiry into the Reform of the Calendar was decided upon by the Advisory Committee at its fifth session in 1923, consisting largely of experts in the fields of religion and astronomy. After studying replies to questionnaires sent to Governments, religious communities and international organizations and hearing those interested — primarily representatives of various religions — the committee ended its work in 1926 by presenting a report of its findings.

The Seventh Assembly came to the conclusion that the next step should be to make this work known in the various countries. For this purpose it suggested the formation of international organizations to study the questions, to include representatives of the principal interests involved. None of the religious authorities upon whom the settlement of this question depended had formulated objections to the

[1] *Report of the Permanent Committee on Road Traffic regarding Road Signalling.* League of Nations, C. 15. M. 8. 1928. VIII. 1.

principle of the fixing of Easter, and no objections had been raised in lay circles.[1]

The Report on the Reform of the Calendar [2] is a comprehensive review of opinions collected from Governments and other sources. The defects of the Gregorian calendar are that the divisions of the year are of unequal length; months contain from 28 to 31 days; quarters of the year vary from 90 to 92 days; the first half of the year contains two or three days less than the second; and there is an unequal number of weeks in the quarters and half years. These inequalities cause confusion and uncertainty in respect to all statistics, accounts, commercial and transport figures.

The year contains 52 weeks plus one day, or two days in leap year. As a result of leap year, the exact reproduction of the calendar takes place but once every 28 years. The day of the month falls on a different day each year. The dates of periodical events vary. The position of weeks and quarters overlaps and reckonings are thereby complicated, while the frequent falling of the first and thirtieth of months on Sunday creates difficulties in making fixed payments. Perhaps the greatest drawback from a statistical and commercial point of view is that the variations render similar periods incomparable. One month of 30 days may contain five Sundays and five Saturday half days on which no production occurs, whereas another month of 30 days will contain but four of each.

The committee received and examined 185 schemes for reforming the calendar, of which 33 were from France, 27 from the United States, 24 from Germany and 14 from Switzerland. The committee felt that it could not recommend any reform changing the beginning of the year from January 1 to December 22, the winter solstice; any alteration in the length of the year, or any scheme making the months of more irregular length. It felt that a general renaming of the months was not of practical utility.

[1] *Official Journal*, VII, p. 1192.

[2] League of Nations, A. 33. 1926. VIII. 6 and C. 167. M. 49. 1927. VIII. 8.

The committee draws the attention of the public to three groups.

The first of these equalizes the quarters of the years. Each quarter would consist of two months of 30 days and one month of 31 days with an additional day in one quarter. Aside from the extra day, each quarter would contain exactly 13 weeks, and each quarter would be easily comparable within itself.

The two other groups provide for a blank day. Thus the year would contain exactly 52 weeks for computing purposes. One scheme provides for 12 months of 30 and 31 days; while the other provides for 13 months of 28 days. Each completely rectifies the variability of the existing calendar. They also possess all the advantages of equalizing divisions of the year. The advantages and disadvantages of both are set forth. The very logical and convenient scheme of 13 months is chiefly objected to because 13 is not readily divisible. Governments seem to feel that the 12-month system would cause less disturbance to established customs, but an increasing number seem to favor the 13-month system, particularly those who are already using it as an auxiliary calendar.

No objection was found to the stabilization of Easter. The Christian churches saw no objection from the point of view of dogma, and all stated that they were willing to accept a reform which would serve the good of humanity. The business world was distinctly favorable because of the influence of a variable Easter on numerous industries. Railroad administrations favored it, and school authorities were without exception desirous of it. At the present time Easter varies between March 22 and April 25. Most replies favored the stabilization of Easter on the second Sunday in April. The committee was prepared to accept this day, with the suggestion that the accurate definition be "the Sunday following the second Saturday of April."

Adjustment of Disputes

European Commission of the Danube. A dispute between France, Great Britain and Italy on the one hand and Rumania on the other respecting the jurisdiction of the European Commission of the Danube was submitted to the Committee for Communications and Transit. The Transit Committee appointed a special committee to study the question on the spot in the spring of 1925,[1] and it met with delegates to the European Commission of the Danube in September, 1925, and September, 1926. As a result of these discussions, the British, French, Italian and Rumanian delegates to the European Commission signed an agreement requesting the Council to ask the Permanent Court of International Justice for an Advisory Opinion respecting the powers of the European Commission. The Court rendered its opinion on December 8, 1927,[2] finding that the European Commission "has the same powers on the maritime sector of the Danube from Galatz to Braïla as on the sector below Galatz" and that its powers "extend over the whole of the maritime Danube" including harbor zones. The opinion was communicated by the Council to the Chairman of the Committee on Communications and Transit for transmission to the Governments concerned.

Oder River System. The treaties of peace provided for revision of the international agreements and regulations relating to the Oder River. A dispute developed between Great Britain, Czechoslovakia, Denmark, France, Poland, Prussia and Sweden respecting the inclusion of navigable tributaries of the Oder which are in Polish territory within the internationalized waterway system. The British Government referred this dispute to the Advisory and Technical Committee by a note of August 23, 1924, France also asking that the committee fix the limits of the international

[1] The committee met at Geneva February 18–19, and March 30–April 2, 1925.

[2] Publications of the Permanent Court of International Justice, Series B, No. 14, and Series C, No. 13–IV.

river system. The committee heard the parties in interest, following study of a report by its own commission of inquiry. Calling attention to the fact that its duty was to act as a conciliatory agency, the committee on November 27, 1924, concluded that the jurisdiction of the International Oder Commission should extend upstream on the Warthe to and above Posen and upstream on the Netze as far as Usch, while other sections of the system should be subject to the provisions of the Barcelona convention on the régime of navigable waterways.[1]

Railroad Systems. Various questions arising from the division of railroad systems between states as a result of the peace treaties have been referred by the Council to the committee and submitted by it to its Subcommittee on Transport by Rail. The Arad-Csanad railways case was the first of this series, coming before the Council in December, 1923, at the request of the Hungarian Government under Art. 304 of the treaty of Trianon. The subcommittee, having found that the dispute had not been the subject of negotiations between the Hungarian and Rumanian Governments, so reported to the Council, which on March 15, 1926,[2] held that it was better not to intervene until an attempt at direct negotiations had failed. Such negotiations were opened in November, and on December 6, 1926, the Rumanian representative informed the Council "that an amicable settlement had been reached regarding railways."[3] The railways then involved in this solution were the Arad-Csanad United, the Haskovo-Mastanly, the Maramarosi-Tarsasag, the Nagykaroly-Matesalka-Casp and Szatmar-Matesalka Railways.[4]

On September 26, 1928, the Council appointed arbitrators following a similar examination by the Committee on Communications and Transit to settle the problem of the administrative and technical reorganization of the

[1] *Records of the Sixth Assembly, Plenary Meetings*, 1925, p. 255.
[2] *Official Journal*, VII, p. 504.
[3] *Ibid.*, VIII, p. 114.
[4] *Ibid.*, VII, p. 1218, 1406, 1415.

Sopron-Köszeg Railway Company, whose lines are situated in Austrian and Hungarian territory. At the same time, the Council, on the advice of the committee, recommended negotiations between the Czechoslovak and Hungarian Governments with an effort to reach an agreement respecting the reorganization of the Boldva Valley Local Railway Company.

Saar Railroads. Freight traffic in Europe is regulated by the international convention signed at Bern in 1890. The Governing Commission of the Saar wished to apply it to the commerce of the territory, and proposed to adhere to the convention. The German Government opposed this proposal on the ground that shipments between Germany and the Saar were subject to internal German transport regulations. The Council of the League in September, 1921, referred the problem to the Advisory and Technical Committee for Communications and Transit, which on August 31, 1922, remitted the question to an inquiry committee according to the conciliatory procedure laid down by the Barcelona Conference. This committee consisted of four experts appointed by the Advisory and Technical Committee, two by Germany and one by the Saar Governing Commission. The experts met at Luxemburg, and on November 24, 1922, unanimously approved a practical and technical agreement solving all outstanding difficulties. This convention entered into force in January, 1923.[1]

The Straits Commission

By Art. 15 of the convention relating to the Straits signed at Lausanne, July 24, 1923, the Straits Commission performs its functions under the auspices of the League and makes an annual report to the Council.[2] The convention lays down the detailed rules for what amounts to the neutralization of the Dardanelles, Sea of Marmora, and Bosporus. In peace and war the commission is intrusted with

[1] *Treaty Series*, XXVII, p. 289.

[2] *Official Journal*, VII, p. 951; VIII, p. 778; IX, p. 879.

administration under these rules.[1] It is composed of representatives of Bulgaria, France, Great Britain, Greece, Italy, Japan, Rumania and Turkey. The Soviet Union reports its naval forces.[2]

The Secretary-General communicates the reports to the Members of the Council, states signatory to the convention, the Members of the League and any technical organization of the League which might be interested in the information contained in them.

3. The Health Organization

The health activities of the League are due to Art. 23 (*f*) of the Covenant which provides that the Members of the League "will endeavor to take steps in matters of international concern for the prevention and control of disease"; to Art. 24 declaring that all international bureaus should be under the direction of the League; and to Art. 25 by which Members agree to encourage and promote the establishment and cooperation of voluntary Red Cross organizations "having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world."

The Universal Sanitary Convention signed at Rome, December 9, 1907, established the Office international d'Hygiène publique, which in June, 1919, voted to come under the direction of the League. The British Ministry of Health convened a conference at the request of the Council on April 13, 1920, to draft an organization for the health activities of the League. This conference provided that the Paris office should be maintained and that its delegates should be members of the League's General Committee. The Office international d'Hygiène publique by a decision of April 25, 1921, found itself unable to appoint representatives to sit on the proposed committee, on the ground that the United States, which was a member of the Office inter-

[1] *Treaty Series*, XXVIII, p. 115.

[2] *Official Journal*, VIII, p. 318, 630.

national, was not willing that it should in any way be attached to the League.

The Assembly on December 10, 1920, had approved setting up an organization, and on June 22, 1921, the Council established the Provisional Health Committee. Later the scheme of the Permanent Health Organization was worked out and approved by the Council on July 7, 1923,[1] and by the Fourth Assembly.

Composition of Organization

The Health Organization consists of

1. The General Advisory Health Council, which is the Committee of the Office international d'Hygiène publique;
2. The Standing Health Committee, 24 members, of which nine are appointed by the Committee of the Office international, six elected by the Council of the League and the rest experts and assessors elected by the Council. The third term of three years begins in 1929. The Health Committee meets in April and October.
3. The Health Section of the Secretariat.

General Functions. The Health Organization deals only with questions of international character. To an increasing extent it serves as the avenue of communication between the public health services of states. Its collection of information is not only exclusively international but is confined to questions in which several states have an interest. The specific fields with which it is concerned vary from year to year, but its activities may be said always to supplement efforts of national public health services either to secure information or to contribute to their efficient administration. It affords a means of cooperation in the domains both of scientific investigation and administration. The content of international conventions, so far as they relate to sanitary measures, naturally falls within its field of interest. The Health Section is generally recognized as the suitable mediatory body for the solution of differences on such matters.

[1] *Official Journal*, IV, p. 1051.

The numerous commissions appointed to handle specific problems are uniformly composed of some members of the Health Committee and a group of experts. For example, much specialized work has been done and the results published in the following fields. The Smallpox and Vaccination Commission is making inquiries and researches into the preparation, use and after effects of lymph. Attention has been given to problems connected with the quarantine disinfection of ships. An opium commission handles the medical phases of that problem in conjunction with the League Advisory Committee. There has been a Subcommittee on Anthrax. In the field of vital statistics, a committee to define "still-birth" made a report in 1925, which has been generally accepted. A committee on the nomenclature of causes of death is at work revising the international list which is in general use among census authorities. Another Committee on a Standard Million Population is trying to determine the fundamentals of that statistical unit. A Commission on Tuberculosis Mortality is pursuing its investigations.

The Assembly frequently proposes new phases of work for investigation.

The activities of the committee are valuable chiefly from a technical point of view, which can only be adequately appreciated by a study of its extensive publications.

Since 1925 an annual edition of *The International Health Year-Book* has been issued. A series of monographs on the *Organisation of Public Health Services* and a handbook series on *Official Vital Statistics* are being issued.

Fight Against Epidemics

In 1920, serious epidemic conditions existed in Eastern Europe. Millions of refugees were huddled together under unsanitary conditions and various typhus and relapsing fever epidemics, originating in Russia, were devastating them. In the previous year, 1919, a commission of the League of Red Cross Societies had found that the situa-

tion was beyond the means and resources of the local administrations and of private voluntary organizations. Accordingly, the Council on March 13, 1920, requested the London Health Conference to draw up a program to cope with the situation. The Epidemic Commission of the League was authorized by the Council on May 19, 1920, and immediately set to work.

Voluntary contributions of states Members of the League made it possible to promote international cooperation in these extraordinary circumstances. Medical measures were left to the local authorities, but the cooperative campaign was planned through the League Epidemic Commission, whose work was the more valuable because most of the Russian border states were newly organized and their own administrations not fully developed. Up to August 1, 1921, the commission had spent about $1,000,000 in coordinating the battle against the epidemic scourges, and over 3,000,000 persons had been vaccinated in Greece alone. The direction of this work fell to the Provisional Health Committee after its organization. The Warsaw Conference in 1922 did much to organize the permanent defenses of Europe against epidemics.

The European Health Conference held at Warsaw, in March, 1922, summoned by the Polish Government on the invitation of the Council, was the first all-European conference since the close of the World War and the first coordinated effort on the part of governmental and public authorities to fight epidemics in Europe. It was attended by representatives of 27 governments. A series of resolutions [1] laid down a comprehensive plan of campaign to strengthen the sanitary defenses of states bordering on Russia, where a typhus epidemic raged. It provided for the organization of sanitary training courses in Warsaw, Moscow and Krakow and laid down the general lines for a series of sanitary conventions.

These conventions were made to provide for the mutual notification of cases of cholera, plague, relapsing

[1] *European Health Conference* held at Warsaw . . . from March 20th–28th, 1922, p. 5–10.

fever or typhus. Precautionary measures to prevent the spread of these epidemic diseases are to be notified to other states and all possible assistance in making them effective is to be given. Medical inspection, disinfection, the segregation of infected persons and other similar measures are to be taken by the authorities within areas defined as centers of infection. Adequate inspection and examination, as well as prophylactic methods, are to be exercised on the land and maritime frontiers with a view to preventing the spread of epidemic diseases, and the authorities of adjacent countries undertake to assist each other in these respects. Special régimes may be established in frontier zones extending five kilometers each side of the boundary line in case of need, while frontier medical observation posts may be established and are entitled to assistance from similar posts of the other country. One feature of the conventions is a clause providing that all disputes regarding their interpretation or application shall be submitted to the mediation of the Health Section of the League.[1]

Epidemiological Intelligence. The need for a service of epidemiological intelligence was emphasized by the experiences of the Epidemic Commission. The impossibility of public health services waging an effective campaign against epidemics without facts as to their incidence and scope made the collection and distribution of such information the first task of the Provisional Health Committee. Many technical problems had to be overcome, such as lack of uniformity in the methods of gathering such information. The Epidemic Commission had made investigations and published several reports.

[1] Conventions of this type have been made between Poland and Rumania, Warsaw, December 20, 1922 (League of Nations, *Treaty Series*, XVIII, p. 104); Germany and Poland, Dresden, December 18, 1922 (*Ibid.*, XXXIV, p. 302); Latvia and Poland, Warsaw, July 7, 1922 (*Ibid.*, XXXVII, p. 318); Latvia and the Russian Soviet Republics and the Soviet Republics of the Ukraine and White Russia, Tartu, June 24, 1922 (*Ibid.*, XXXVIII, p. 35); Estonia and Latvia, Tartu, June 24, 1922 (*Ibid.*, XXXVIII, p. 81); Poland and the Russian Soviet Republics and the Soviet Republics of the Ukraine and White Russia, Warsaw, February 17, 1923; Czechoslovakia and Poland, Warsaw, 1922; Estonia and the Russian Soviet Republics and the Soviet Republics of the Ukraine and White Russia, Tartu, June 25, 1922; Bulgaria and the Serb-Croat-Slovene State, April, 1923.

An appropriation of an annual grant of $32,840 from the International Health Board of the Rockefeller Foundation enabled the Committee in July, 1923, to issue the *Monthly Epidemiological Report.* The report has become more and more valuable to public health services throughout the world and has steadily increased in accuracy. Back of this development has lain extensive scientific and technical investigations, resulting in radical changes in the methods of handling public health statistics.

The great plagues which afflict mankind and decimate populations originate in the Far East, and are spread throughout the world. In November, 1922, the League's epidemic commissioner went on a mission to the Far East to acquaint himself with this situation. As a result, a bureau in the Far East to receive and distribute epidemiological information was suggested. The proposal was approved by the Health Committee, by the Council in 1924, and by an international conference of 12 Far Eastern health administrations at Singapore, February 4–13, 1925. Meantime, the Rockefeller Foundation had offered to grant a subvention of $125,000 for a period of five years for the establishment of such a bureau.

The Eastern Bureau. The Eastern Bureau of the Health Organization at Singapore started work on March 1, 1925. It began by distributing telegraphic information from 35 ports in the 12 countries represented in the February conference. The development of the Bureau's weekly report was steady. In 1928, it received telegraphic information from 140 ports, to which it is only possible to add more Chinese ports in order to cover the whole of the Far East. Information thus gathered is broadcast in a code message every Friday from the wireless stations at Saigon, Indo-China, Bandoeng, Dutch East Indies, and by telegraph from Geneva to 124 public health administrations throughout the world. The code message is supplemented weekly by more detailed and additional reports by mail. The substance of these reports increases in value as a wider range of information becomes available through

steady improvement in the system of reporting and transmission.

The Eastern Bureau is intrusted with the duties of collecting and distributing epidemic information by the Paris sanitary convention of 1926, which supersedes that of 1907. As a consequence of its provisions, agreements were entered into in 1927 between the Health Committee and the Permanent Committee of the Paris office. These were approved by the Council on June 13, 1928.[1]

The Eastern Bureau is controlled by an Advisory Council consisting of delegates representing health administrations of the Far East. While its budget originally came entirely from the Rockefeller grant, health administrations are contributing to it, and eventually it will be supported by Government contributions.

The Epidemiological and Public Health Intelligence Services of the League are subject to constant improvement as the result of experience. In October, 1927, a Conference of Experts examined the form of presentation of the epidemiological publications and the conditions attending their preparation with a view to securing the greatest possible degree of uniformity and speed.

In November, 1926, an epidemic of influenza broke out in Europe and spread over a wide area. A special bulletin and a service of wireless broadcasts was begun to inform public health administrations of current conditions. A total of 30 countries contributed information, which materially aided in circumscribing the epidemic. All health services concerned contributed to a general report, which is probably the first instance of a complete, authentic record of the outbreak and subsidence of an epidemic. In 1928 aid was given to the Balkan states following serious earthquakes.

Interchanges of Public Health Officials

The duty of the Health Organization to promote cooperation in the field of public health directed attention at the

[1] Text, *Official Journal*, VIII, p. 809.

outset to the desirability of bringing administrative health officials in different countries into closer touch with each other. Thanks to a yearly grant since 1922 from the International Health Board of the Rockefeller Foundation, varying between $50,000 and $75,000 annually, a great number of public health officials have visited other countries to study general or special phases of their work. What are known as collective interchanges, in which public health officers examine the operation of national administrations on a study tour, were most numerous in the first few years. As the work of the committee progressed, special interchanges of specially selected experts or even individual missions have occurred.

The collective interchanges began in October, 1922. They close with a conference and series of lectures at Geneva. During 1927 these interchanges were altered so as to become less of a study tour and were developed into international courses of advanced training in public health and hygiene. From 1922 through 1928 a total of 31 interchanges was held. Such interchanges were held in all parts of the world. From 1922–24, 176 persons of 126 nationalities participated.

In 1926 individual medical missions were inaugurated. These may be for the purpose of either scientific or laboratory research. A Japanese physician was enabled to complete a study of vitamines in Europe. An English professor made a special study and reported to the Health Organization on *The Food of Japan.*

While the interchanges are confined to persons who have already established themselves in their professions, the Health Organization has also provided scholarships for the study of special diseases. This is notably true in connection with the Malaria Commission, which has embarked on a program for training malariologists.

Training Courses. The Health Committee on January 11, 1923, asked the Medical Director to collect information from the universities of America, Europe and Japan regarding the study of medical and social hygiene. On

February 20, 1924, the committee appointed a commission to examine the information collected, to continue the inquiry and to make recommendations as to the courses of study which in its opinion are most likely to yield the highest value in public education both from the scientific and practical points of view. The commission worked out a very complete schedule to this end,[1] with special reference to instruction courses. This Commission on Education in Hygiene and Preventive Medicine began in 1927 to hold sessions taking the form of conferences between the directors of schools of public health. A program for their cooperative realization is being carried out.

Relations with Special Areas

The Health Committee has responded to invitations to examine conditions or perform special work in various parts of the world. Most of these activities have been for a special purpose in connection with some phase of the committee's activities. Three areas, however, are receiving continuous attention, in addition to the contacts afforded by the interchanges of officials.

The special investigations of the Health Organization are of particular benefit to Latin America where both problems and conditions peculiar to the territory exist.

Latin America. The first League conference on Latin American soil was a Conference of South American Experts on Child Welfare[2] at Montevideo, Uruguay, June 7–11, 1927. Inquiry into infantile mortality is a great and urgent problem in South America, where underpopulation is a problem and infant mortality rates are comparatively high. The conference decided on a preliminary inquiry in Argentina, Brazil and Uruguay, which was followed by a detailed study ending in 1929. An international school for infant and child hygiene at Buenos Aires under the auspices of the League is proposed. The establishment of

[1] Health Committee. *Minutes of the Third Session*, p. 49-54.

[2] League of Nations, A. 49. 1927. III. 8.

an international school of public health under the auspices of the League at Rio de Janeiro, Brazil, was approved by the Health Committee in 1927. Programs of study on leprosy, the diagnosis and treatment of syphilis and the coordination of laboratory work are under way in South America.

Pacific Problems. An International Pacific Health Conference was held at Melbourne from December 15–22, 1926. In accordance with its invitation a preliminary survey has been made of health conditions in Papua, New Guinea, the New Hebrides, New Caledonia, the Solomon Islands and Fiji.

Much valuable and original information is contained in the records of the Japanese Health Service which have been practically a sealed book to western medical science. The Japanese health and medical authorities formed a commission to strengthen the contacts between the Health Organization and applied medical science in the Far East. Monographs, based on recent original Japanese research work on public health problems of international importance, are being published by the Health Committee through its help.

Standardizing Sera

The provisional Health Organization has conducted a technical reform of far-reaching importance through the Commission on Standardization of Sera, Serological Reactions and Biological Products. The international character of medical science forced the nations to an agreement on the unification of the formulas of potent drugs, which was signed at Brussels November 29, 1906. In the period since then serum has come to be widely used as a means of treatment, but sera are made by different processes in different countries, and variations in strength have created great difficulties.

The Health Committee convened a conference of delegates of medical institutes at London in 1921 to discuss the problem. They agreed upon a scheme of coordinated investigation, designating the Danish State Institute of Serotherapy at Copenhagen as the laboratory to centralize

their results. A conference in Geneva in September, 1922, a more general one at the Pasteur Institute in Paris in November, 1922, a conference at Edinburgh in July, 1923, and a technical laboratory conference at Copenhagen in November, 1923, produced the first results and determined the methods followed. These may be described as the conduct of extensive laboratory tests of a given substance, followed by a conference of technicians to agree upon the conclusions produced.

Once a standard is agreed upon, the preservation of it is intrusted to a specific serological or biological institute. The units fixed by the commission are known as League of Nations units and were recommended as standard for the world by the Second International Conference for the Unification of the Formulæ of Powerful Drugs at Brussels, September 21, 1925.

Anti-diphtheritic serum has been determined as the Ehrlich standard, 10,000 antitoxin units as a therapeutic dose and 1,000 units as a preventive dose. The anti-dysentery serum was standardized by utilization of the Shiga bacillus. Experiments with respect to standardizing tuberculin have been under way for three years, and investigations respecting anti-meningococcus, anti-pneumococcus, and anti-streptococcus are being held.

In the field of the biological standardization of drugs, the efficacy and toxicity are determined. For medical practice, it is also important to determine the strength at which they should be administered. Standards have been fixed for pituitary extract, insulin, digitalis, arcenobenzols and thyroid gland extract. Ergot, cod liver oil and vitamines, parathyroid extract and ovarian extract are in process of standardization.

Extensive tests as to the reagents in the serological diagnosis of syphilis resulted in a special conference in May, 1928.

Rabies. The first International Rabies Conference was attended at the Pasteur Institute in Paris in April, 1927, by representatives from anti-rabies institutes in 27 coun-

tries. This conference was organized by the Health Committee in view of the general interest in the treatment of hydrophobia and numerous requests made by directors of anti-rabies institutes.

Four committees were concerned with the nature of the rabies virus; the methods of inoculating persons after they have been bitten; various modifications of the Pasteur treatment; general and local accidents consequent on anti-rabies inoculations; post-vaccinal paralysis; the problem of inoculating domestic animals which have been bitten and the preventive inoculation of dogs; the necessity for preparing upon a uniform basis statistics concerning the results obtained from anti-rabies treatment; legislation in force in the various countries.

The conference [1] adopted the resolutions and recommendations of its committees and decided upon inquiries concerning the technique of human vaccination, different kinds of vaccine, plurality of strains of street and fixed virus, the rabicidal action of the serum of man and animals during and after immunization, etc. It requested the Health Organization to organize these investigations and arrange to collect and distribute information relating to rabies.

Malaria Commission

The Provisional Health Committee appointed a malaria subcommittee in January, 1923, which became the Malaria Commission in 1924. Malaria is endemic in districts inhabited by 650,000,000 people, a third of the world's population. By a series of study tours in Bulgaria, Greece, Italy, Rumania, Russia, Serbia, Albania, Macedonia and the Ukraine, and investigations in Corsica and Sicily and the Mediterranean basin generally the commission was able to prepare a general report [2] of great value in 1927. The report emphasizes the commission's view that no one method of malaria suppression can be considered best, and

[1] Reports . . . *to the International Rabies Conference* . . . (C. H. 531 (1). 1927. III. 14).

[2] *Principles and Methods of Antimalarial Measures in Europe* (C. H. Malaria. 73. 1927. III. 3).

that each district must be carefully studied before deciding what methods are the most likely to yield good results.

Visits have been paid to the deltas of the Mississippi, Danube, Ebro and Po to determine the connection of rivers with the disease. Investigations also have extended to such subjects as the influence of rice fields in Europe, the rôle of animals, the results of drainage measures, of measures directed against adult mosquitoes and against larvæ, conditions under which mosquitoes become infected, the value of the secondary alkaloids of cinchona as a substitute for quinine, etc.

All this work was reviewed at the session of the commission at Geneva in June, 1928, when the report was discussed with the corresponding members and experts of the commission, a representative of the United States Public Health Service and six experts of the Rockefeller Foundation. The conclusions of the report were analyzed and a future program adopted.

Courses of study for training malariologists, organized by the Malaria Commission in selected institutes in London, Rome, Paris and Hamburg, followed by practical work and observation in malarial areas in Corsica, Italy, Serb-Croat-Slovene State and Spain, were given in 1926 and are repeated annually. Fourteen scholarships are awarded for these courses by the Health Organization in addition to those provided by the Rockefeller Foundation.

Infant Mortality

The Netherlands Government proposed to the Sixth Assembly an inquiry into infant mortality. The Committee of Health Experts on Infant Welfare laid down their program of work in 1926. By 1928 they had concluded an inquiry in 29 districts, both urban and rural, of seven European countries where infant mortality was respectively high and low but in which such factors as the birth rate were relatively comparable. A full report has been prepared.

The committee continues to collect information as to immunization against measles, scarlet fever and diphtheria and is preparing to study rickets. Special attention is being given to Latin America, which the committee visited in 1927.

Cancer

A subcommittee of the Provisional Health Committee was appointed on this subject on June 5, 1923. It was reconstituted as the Cancer Commission by the Standing Health Committee, February 20, 1924, with the addition of experts and consultants. A first report made in 1926 dealt with (1) the reality of differences in frequency of cancer of the breast and the uterus in different countries; (2) the negative results of investigations as to the possible relation between cancer mortality and race in certain European countries; (3) the value to be attached to statistics concerning cancer mortality and the interpretation of such statistics; (4) the results of various national inquiries and statistical data collected and collated by the Secretariat; (5) a memorandum on the best methods of securing sufficient publicity for the information already collected. The commission continues on a program emphasizing the study of occupational cancer and certain aspects of the radiological treatment of cancer.

Health Insurance

A preliminary survey [1] on the relation of health insurance to public health services brought out in 1927 that a great many health insurance organizations are engaged in one form or another of preventive medicine, health education or public hygiene, but often with little or no correlation with that of other public health agencies. The introduction of a well-considered system would allow of better utilization of all available facilities. The Health Committee decided to appoint a commission of experts, which

[1] *Health Committee. Ninth Session*, p. 71 (C. 107. M. 38. 1927. III. 4).

confined its work in 1928 to the examination of two questions, the prevention of tuberculosis and the protection of maternity, infancy and the child of preschool age.

Tropical Diseases

The problem of combating diseases peculiar to the tropics was brought to the attention of the Provisional Health Committee by the Mandates Commission, which had learned from the reports of the mandatory states something of the scope of the problem. The question of sleeping sickness had in fact been approached before the World War and there had been held in London in June, 1907, an international conference on that subject. The Health Committee appointed four experts on May 15, 1922, to report upon sleeping sickness and tuberculosis in equatorial Africa. On February 21, 1924, the committee named three of its own members to guide the work of the experts with respect to health conditions in mandated territories. The preliminary report recommending administrative and technical aid to combat the scourge was studied by an international conference at London in May 19–22, 1925, when a new program of investigation was decided upon. A second conference upon the commission's final report will be held in 1929. A permanent committee to receive and discuss annual reports on the program of research work exists. Several conferences of African officials have been held.

4. Intellectual Cooperation

The First Assembly, on December 18, 1920, approved the assistance which the Council had given to the development of international cooperation in intellectual activity and particularly support extended to the Union of International Associations. On September 21, 1921, the Second Assembly adopted a resolution, proposed by Léon Bourgeois in the name of the Council, to the effect that the Council should nominate a committee to examine international questions regarding intellectual cooperation.

Committee. The committee was not to exceed 12 members. On January 14, 1922, the Council decided to appoint this committee.

Henri Bergson, the French philosopher, was chairman of the committee until his resignation on August 12, 1925. He was succeeded by Professor H. A. Lorentz, the Dutch physicist, until his death on February 4, 1928. Professor Gilbert A. Murray, the Oxford Greek scholar, was elected chairman on July 25, 1928, and at the same time Mme. Curie, the famous scientist was made Vice-President. Professor Robert Andrews Millikan, director of the Norman Bridge Laboratory of Physics at the Technological Institute of California, has been the American member from the beginning. Albrecht Einstein, the German physicist, resigned at one time and later resumed his membership. Several other changes in membership have occurred. In July, 1925, the committee appointed three corresponding members. The committee, as a result of changes, had increased in 1928 to 15 members, including a Japanese.

In 1922, when the committee was first constituted, its members were appointed for an indefinite period. As the Council felt that the committee should be regarded as a permanent organ of the League, it decided that the term of office of its members should be for five years (from June 9, 1926) and should be subject to renewal.[1]

Development. The committee started its activities with a general inquiry for the purpose of ascertaining the extent of the evils from which intellectual activity and intellectual workers in different professions were suffering, and collecting suggestions for possible remedies. It was deeply impressed with the hard conditions confronted by intellectual workers in certain countries. A definite appeal bespeaking assistance for the Austrians was addressed on November 4, 1922, to the learned institutions and societies of all countries, and resulted in a generous response. Subsequently a similar appeal was made on behalf of the Hungarians. At the beginning of 1923, Albania, Austria,

[1] *Official Journal*, VII, p. 949.

Bulgaria, Czechoslovakia, Estonia, Hungary, Lithuania, Poland, Rumania and the Serb-Croat-Slovene State were availing themselves of the avenue afforded by the committee to maintain touch with their fellow workers throughout the world.

At the outset the committee directed an inquiry into the conditions of intellectual work, the monographs of which have been published. Some of these relate to general questions, but the more extensive series is devoted to intellectual life in specific countries.

The committee secured a large number of books for the University of Tokio, which was destroyed by earthquake in 1923.

While these postwar problems were being met, the committee was developing a program for permanent work. At its first session it appointed three subcommittees on bibliography, university relations and intellectual property and in 1925 one on arts and letters. To these committees there came without delay a wide variety of problems. As part of the organization, it was decided to encourage the formation of national committees in the different countries. In 1924, France proposed to establish an International Institute at Paris, and it has functioned since 1926 as a special organ of the committee with its own staff. Both the Committee and the Institute have been under the necessity of calling upon numerous committees of specialists, since almost every question which has arisen has required special technical investigation. There is also a tendency to establish specialized offices in connection with the Institute which, in addition to its own program, aims to be hospitable to all efforts at intellectual cooperation. The International Committee itself is served by a section of the Secretariat. The Institute, while autonomous, is controlled by the committee sitting as its Governing Body. The detailed work of the Institute is under the authority of a committee of Directors, and it has attached to it national delegates appointed by Governments. The complications of the organization which have thus grown up

led the committee at its 10th session to decide to review both its program and mechanism. "The organization," said the rapporteur of the committee to the Council, "must be informed by a single guiding spirit which will insure the smooth working of all its parts."

National Committees were felt to be necessary to act as intermediaries between the organizations of the respective countries and the League committee, and to assist in inquiries on the conditions of intellectual life undertaken by it by transmitting either directly or to other national committees both information and requests. The national committees determine their relations with their Governments, and their rules of procedure and composition. The first of these national committees came into being as organs for rendering assistance to intellectual *confrères* in the countries most adversely affected by the World War. They have now transferred their activities to distinctly intellectual matters. Committees have been organized in the following countries: Australia, Austria, Belgium, Bolivia, Brazil, British Empire, Bulgaria, Chile, Cuba, Czechoslovakia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Japan, Latvia, Lithuania, Luxemburg, Netherlands, Norway, Panama, Poland, Portugal, Rumania, Salvador, Serb-Croat-Slovene State, South Africa, Spain, Sweden, Switzerland and United States.

The Eighth Assembly invited "states Members of the League which have not already done so to consider the possibility of providing the necessary funds to meet the expenses of their respective National Committees." At its 10th session the committee decided to summon in 1929 a meeting of representatives of the national committees to establish closer relations with one another, to exchange information as to their organization and methods of work, to make known their views on the work of the international committee and to suggest questions which the latter might usefully study.

International Institute

The French minister of education, on July 24, 1924, offered the committee a building and an annual fund for the establishment of an International Institute of Intellectual Cooperation.[1] The Council accepted this offer in principle on September 9. A lively debate occurred in the Second Committee of the Fifth Assembly respecting this proposal. The Assembly laid down principles to control its acceptance and on December 8, 1924, the French Government embodied these in a formal tender to the Council, appending an organic statute of the proposed institute. This was accepted by the Council as an agreement[2] on December 13, 1924.

The International Institute was inaugurated on January 16, 1926, with offices in the Palais Royal, 2 rue de Montpensier, Paris. It is under the detailed control of a Committee of Directors consisting of five persons of different nationalities[3] and the chairman of the Governing Body.

The Governing Body of the Institute is constituted by the Committee on Intellectual Cooperation and presided over by a French member of the committee. The Governing Body draws up the budget and determines the program of work; it appoints the directorate, the director and the heads of sections and branches.

The Institute is headed by a French director and an English assistant director.

The French Government provides toward its support a sum of 2,100,000 French francs annually,[4] including the cost of the necessary premises which are placed at its disposal by the French Government. The Institute as a legal person may accept donations, legacies, and subsidies from governments, institutions, organizations or private

[1] *Official Journal*, V, p. 1522.

[2] *Ibid*, VI, p. 157.

[3] Vernon L. Kellogg, of the National Research Council, is the American member. C. Vibbert replaced him in one session.

[4] Increased in 1928 to 2,600,000 French francs.

persons. The French Government undertakes to maintain its part of the agreement for a period of seven years.[1] The budget for 1929 amounts to 2,896,000 French francs, to which, besides France, Austria, Belgium, Egypt, Ecuador, Hungary, Italy, Luxemburg, Monaco, Poland, Portugal, Switzerland and Czechoslovakia have contributed subsidies.

"The principal object of this institute shall be to prepare the work to be discussed by the Committee on Intellectual Cooperation, to assure in all countries the carrying out of the decisions and recommendations of that committee, and, under the direction of the committee and by every means in its power, to promote, through international cooperation, the organization of intellectual work throughout the world" (Art. 2).

The work of the Institute is divided among sections corresponding to the subcommittees of the Committee, of which they are the executing organs. The sections deal with University Relations, Artistic Relations, Literary Relations, Scientific Relations, a Section of Information and Reference and a Legal Service. A full analytical report is under preparation to enable the activities to be coordinated and concentrated.

National Delegates. National delegates accredited to the Institute have been named to cooperate with it by the following states: Argentina, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, Irish Free State, Italy, Luxemburg, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Poland, Portugal, Rumania, Salvador, Sweden, Switzerland, Uruguay, Venezuela.

University Relations

The Subcommittee on University Relations was appointed on August 4, 1922.

The International University Information Office was

[1] *Official Journal*, VI, p. 285.

established at Geneva in January, 1924, under the direction of a governing body of which the director of the American University Union in Europe was a member. In 1924 and 1925 the office published a periodical *Bulletin* dealing with all phases of university relations, and paying special attention to information concerning the international recognition of degrees and diplomas, comparative study of curricula, announcements of courses on international relations in all phases, the interchange of students, and the extension of the interchange of professors. This has been continued by the Institute as the *Bulletin for University Relations.*

On April 6, 1925, the governing body arranged for carrying out Dr. C. T. Hagberg Wright's plan for the establishment of the list of the best works published in various countries, which was approved by the committee in July, 1924. Such lists of *Notable Books* have been compiled by the national committees and published by the Institute for 1924 and following years.

University Problems. The directors of National University Offices have met annually since 1926 on the invitation of the Institute. These offices are being organized in all countries to deal with the relations between their own and foreign universities. The International Institute of Education and the American University Union act for the institutions of the United States. At the third meeting in April, 1928, the delegates studied questions concerning the movements of professors and students between the different countries; the obstacles (difference of language, cost of living, depreciated currency) to the international exchange of professors and students; the equivalence of university degrees; special courses for foreigners; measures to facilitate student travel and to enable them to benefit as far as possible by these travels.

It is proposed that international agreements should be concluded for the encouragement and systematic preparation of exchanges of teachers, for which the national committees on intellectual cooperation can usefully act as liaison

offices, especially for the organization of longer teaching courses.

Coordination of Studies. A meeting of Experts on Coordination of International University Studies met at Berlin March 22–24, 1928. Walter W. McLaren, secretary of the Institute of Politics at Williams College, Williamstown, Mass., participated. The experts submitted reports on the work of the institutes they represented and passed resolutions for coordinating their work. A general program to this end will be drawn up at a later meeting.

University Exchanges. On March 7, 1928, the Council authorized the Committee on Intellectual Cooperation to accept the offer of the American Council on Education to contribute $5,000 for an inquiry in Europe with regard to the organizations dealing with exchanges of professors and students between different countries. The resulting handbook, *University Exchanges in Europe*, is due to go into a second edition with the aid of a new grant of $4,000.

Scholarships. In 1928 the subcommittee and plenary committee recommended that a special committee of experts should be instructed to study the problem of national and international postgraduate scholarships as to its application not only to scientific laboratories but also to institutes for the study of humanities and sociology.

A compilation entitled *Holiday Courses in Europe* is published annually since 1928.

Students' Organizations. The Committee of Representatives of International Students' Organizations has held annual sessions at Geneva since 1926. The organizations represented were: the International University Federation for the League of Nations, the World Union of Jewish Students, the International Federation of University Women, the International Student Service, the World Student Christian Federation, "Pax Romana," the International Students' Confederation and the Auslandsamt der deutschen Studentschaft (in an advisory capacity).

At its second session the committee decided that a central international office should be set up in connection

with the International Institute, with one delegate from each of the international students' organizations. An international students' identity card has been prepared. Among the questions discussed at the third session were unemployment in connection with brain workers, international student statistics, a scheme for an international university yearbook, a study of methods of self-help and mutual aid and the cooperative organization of students, the coordination of the dates of international students' conferences, the encouragement of foreign studies, and the most suitable means of making known the traveling facilities for students already granted by Governments and traveling agencies.

Science and Bibliography

The Subcommittee on Bibliography was appointed on August 2, 1922. Professor Jacob R. Schramm of the National Research Council is the American member. The subcommittee assumed supervision over the work of the Scientific Relations Section of the Institute in 1926, resulting in its adopting the title of the Subcommittee on Science and Bibliography.

It has issued a first edition of an *Index Bibliographicus*, containing a list of all periodical bibliography and bibliographic institutions, which was prepared by Marcel Godet of the subcommittee.

The incomplete realization of the idea embodied in the international convention of March 15, 1886, respecting the interchange of official, scientific and literary publications attracted the attention of the subcommittee, and as a result of the deliberations of a committee of experts at Geneva July 17–19, 1924, a series of resolutions was prepared for embodiment in a revision of the original convention.[1] In the end the Belgian Government assumed charge of securing further ratifications to the unrevised convention.

Libraries. As a result of meetings of a Committee of

[1] *Official Journal*, V, p. 1807; VI, p. 739, 1187, 1278, 1770.

Experts regarding the Coordination of Libraries, progress has been made in facilitating loans and exchanges between the libraries of different countries and the organization of machinery to direct intellectual workers to libraries containing the most suitable material for their studies. More than 400 libraries have expressed a willingness to cooperate.

Bibliography. The subcommittee in its early period considered proposals for an annual bibliography of publications in all branches of science, literature and art and this has been tentatively approved by the Council.[1] On closer examination, it was decided to divide this field into its constituent parts, due in some measure to the fact that various annual bibliographies or bibliographical summaries existed. The bibliography of biological science is thus taken care of. The Institute has summoned meetings of experts on the coordination of bibliography in economic sciences and linguistic bibliography.

Research. The Institute has interested itself in the facilitation of research work in the historical and social sciences. A proposition to translate scientific works from little known languages is being investigated.

Preservation of Manuscripts. A Committee of Experts has been studying the problem of the preservation of printed matter and manuscripts, especially with relation to the quality of print paper in use.

Linguistic Terms. An inquiry of considerable importance is being conducted into the standardization of linguistic terms, owing to the fact that the technical words of grammar are given various meanings, creating difficulty of comprehension for the student.

Arts and Letters

The Subcommittee on Arts and Letters was established on July 28, 1925. Its first work was to draw up the general program for the activities of the corresponding section of the Institute. Since that time it has both assumed charge

[1] *Official Journal*, V, p. 1536.

of work originally undertaken by other subcommittees and developed its own field.

Museums. Under its direction, and with approval of the Council, there was established on September 3, 1926,[1] the International Museums Office as an organ of the Institute, which publishes a review and has embarked upon a considerable program. It is conducting an inquiry into the unification of museum catalogs and is evaluating their educational influence and the means for increasing it.

Chalcography. Under the subcommittee, a Committee of Representatives of Chalcographical Institutes reached an agreement in 1927 with regard to the exchange and sale of prints and their joint exhibition. Under this, joint exhibitions of proofs were held in Madrid, Paris and Rome in 1927 and in Birmingham, Brussels, Buenos Aires, Geneva, Liège and London in 1928.

Casts. In January, 1928, a meeting of Experts on Casts of Works of Art was held at Geneva in order to bring museums of casts and casting studios into cooperation. A handbook of these is to be drawn up and a list of the best molds prepared. The cooperation of official cast workshops in producing expensive or difficult casts is to be undertaken and joint exhibitions are to be held. Three such exhibitions covering the entire history of art are to be held in 1929. Belgium, France, Germany, Great Britain, Greece and Italy are cooperating in this program.

Popular Arts. The subcommittee organized a Congress of Popular Arts at Prague in October, 1928, and this was preceded by an International Exhibition of Popular Arts in Bern a few months earlier.

Publication of an international yearbook of the arts has been approved in principle.

Motion Pictures. The subcommittee has instructed the Institute to prepare a report on the motion picture as a form of art, and on its initiative the Assembly passed a resolution calling "the attention of Governments to the danger of cinematographic performances and broadcast-

[1] *Official Journal*, VII, p. 1287.

ing characterized by a spirit antagonistic to that of the League."

Music. A list of contemporary musical compositions performed or published is compiled periodically by the Institute.

Differences in the pitch of different musical instruments affects that great branch of art. The Committee of Experts has found the 1859 standard which was confirmed by an international conference at Vienna in 1885 still applicable and is considering means of completely maintaining it.

Literary Works. The international committee has referred to the national committees a proposal made by John Galsworthy of the subcommittee that translations of literary works be made, the Federation of P. E. N. Clubs selecting the works and making the translations.

Intellectual Rights

The Subcommittee on Intellectual Rights was established August 3, 1922.

Scientific Property. The subcommittee at the outset decided that the protection of scientific property and the right of the scientist to his invention should be the subject of a draft international convention based on the idea that scientific discovery should rank with artistic creation and technical invention, both of which are protected, the former by copyright and the latter by patents. While the invention of a new rubber heel may bring a fortune to the patentee, the scientist who discovers the process of vulcanizing or a formula for producing a special steel alloy is protected by no law with respect to the industrial exploitation of his discovery. The Fourth Assembly approved the principle of the plan and the collection of observations from the Governments throws light on practical means of carrying it out. A special Committee of Experts at Paris in December, 1927, prepared a revised draft of the scheme, which was laid before the Ninth Assembly [1] after approval by the Committee. The draft has been submitted to Governments for their opinion. The principle governing

[1] League of Nations, A. 21. 1928. XII.

the right is that "every scientific discovery open to material utilization entitles its author to remuneration from the users thereof," utilization being understood as "contributory to the production of a commercial commodity."

Literary and Artistic Property. The subcommittee, in cooperation with that on arts and letters, contributed to the revision at Rome on June 2, 1928, of the Bern convention for the protection of literary and artistic works, signed September 9, 1886, and revised at Berlin November 13, 1908. The subcommittee from the outset had worked to increase the number of parties to the convention. It had made an extensive study of the revision required, and at the international conference at Rome these were generally realized. The Ninth Assembly requested that investigations be made respecting the unification of the revised Rome convention and the copyright convention signed in 1910 at Buenos Aires by the American states and revised in Habana in 1928. This investigation involves a study of all national laws and measures for the protection of intellectual property.

The subcommittee examined the protection of professional titles, and a resolution for the consideration of Governments was prepared by it.[1]

Status of International Organizations. The subcommittee has launched an extensive study of the legal status of international associations and foundations. This is being continued in collaboration with the Committee of Experts for the Progressive Codification of International Law, and the results will be considered by the International Institute for the Unification of Private Law.

The conditions contributing to the smuggling and forgery of works of art and antiquity have been under extensive investigation.

Archeological Research. At its first meeting the subcommittee took up the question of coordinating archeological research and the protection of ancient monuments. The purposes in mind were the allocation of the exploring

[1] *Official Journal*, V, p. 1528.

field, the framing of a list of archeological sites not yet explored, aid in enabling explorers to benefit by each other's methods, and international rules for the preservation of archeological monuments.

Circulation of Publications. The Ninth Assembly recognized the importance of a resolution of the subcommittee respecting obstacles to the international circulation of scientific and technical publications for which favorable customs and postal arrangements should be made. The Institute has been instructed to propose a customs nomenclature by which such works should be exempt from customs duties. It has the benefit of suggestions from publishers in this connection.

Statistics. The subcommittee has given its approval to a report on the compilation of intellectual statistics submitted to the International Institute of Statistics at its plenary session, 1927–28, at Cairo.

Instruction of Youth

The Fifth Assembly decided that it was important that the youth of the entire world should be familiarized with the principles and work of the League of Nations and that the younger generation should be trained to consider international cooperation as the normal method of conducting world affairs. It instructed the Secretariat to investigate the means by which efforts to promote contact and to educate the youth of all countries in the ideals of world peace and solidarity may be further developed and coordinated and to submit a report.[1] The Sixth Assembly in 1925 regarded the report "as a first stage" and requested the continued collection of information. As a consequence, the Committee on Intellectual Cooperation in January, 1926, decided to appoint an expert subcommittee to examine the whole question and proposed to the Council that this should be formed of ten or twelve members, including three members of the committee. On

[1] The report is available in separate form as Documents A. 10 and A. 10 (a). 1925. XII.

March 15 [1] the Council instructed its president, after consulting the chairman of the Committee on Intellectual Cooperation, to appoint the members of the subcommittee, the primary qualification being experience in teaching.

The Subcommittee of Experts for the Instruction of Youth in the Aims of the League of Nations in two regular meetings and one limited meeting examined the material which had been gathered, in part from international associations, and which had been published for the Seventh Assembly.[2] Eventually a series of recommendations resulting from the study of all these suggestions was laid before the Eighth Assembly in what it called a remarkable report.[3] The subcommittee continues its work on the lines suggested by the Council report of September 2, 1927.[4]

The 1927 Assembly specifically approved the subcommittee's recommendations for creating League of Nations Educational Information Centers.[5]

Member States to Act. The Assembly approved the recommendations as a whole and instructed "the Secretary-General to communicate them to the Governments of the states Members of the League of Nations, requesting them, so far as may be possible in each particular case, to take the necessary measures to give effect" to them.

Section II of the report deals with the many possible methods of developing the spirit of international cooperation, which was generally defined from the point of view of the Assembly's 1924 resolution.[6]

Numerous practical methods of promoting direct and indirect contacts between young people of different countries are described and discussed.

Section I of the recommendations is devoted to instruction in schools and higher educational institutions, its con-

[1] *Official Journal*, VI, p. 569, 506.

[2] *Ibid.*, p. 1202; separately, A. 26. 1926. XII. A. 5.

[3] A. 26. 1927. XII. A. 3.

[4] *Official Journal*, VIII, p. 1110.

[5] *How to Make the League of Nations Known and to Develop the Spirit of International Cooperation*, p. 20 (C. 515. M. 174. 1927. XII. A. 9).

[6] *Ibid.*, p. 17.

ditions, methods and mechanism, including books and other material. Special emphasis is given to providing concrete aids to teaching. The recommendations include plans for both class-room and outside realization. "Instruction should begin in the primary school and should be continued to as late a stage as possible in the general education of the pupil," girls as well as boys. Special courses for teachers are suggested and definite types of literature and material for visual instruction are indicated, in addition to reading matter for children of various ages.

Institutions of university grade may create special chairs and in any case it is desirable that they give one or more special courses on the League of Nations and international relations in general. Encouragement of selection of League problems as subjects of theses is desirable and the study of international law should be made compulsory for all law students. Methods useful for voluntary associations are listed in the recommendations.

"Those in charge of educational institutions should be asked to use their influence to insure that text-books in general should not be written in such a way as to conflict with the spirit of mutual conciliation and cooperation," says the report. "In this respect, history text-books should be the subject of particular care. It is desirable that, in every country, incitements to hatred of the foreigner should be eliminated and every effort made to arrive at a better comprehension of what one nation owes to another."

A special reference book giving an account of the work of the League of Nations and the International Labor Organization for the use of teachers is being prepared, which will probably assume a biennial form.

Several countries, among them Canada, Denmark, France, the Netherlands and the South African Union, have introduced the teaching recommended into their school curricula. The Ninth Assembly noted "with satisfaction the readiness with which teachers in secondary and elementary schools have answered the appeal for cooperation

addressed to them, and welcomes the organization of courses of study with a view to their special requirements, not only on a national basis by various committees, but also on an international basis at Geneva and elsewhere."

5. Suppression of Opium Traffic

Art. 23 of the Covenant provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League (*c*) will intrust the League with the general supervision over the execution of agreements with regard to . . . the traffic in opium and other dangerous drugs."

An international opium commission met at Shanghai in 1909 and a conference was convened at The Hague in 1912, resulting in a convention for the international control of opium and similar drugs. Additional conferences were convened in 1913 and 1914 with the purpose of bringing the 1912 convention into force.[1] This had not taken place at the outbreak of the world war. With a view to making the convention effective, the signatories of the treaties of peace by Art. 295 of Versailles and corresponding articles of the other treaties agreed "that ratification of the present treaty should, in the case of powers which have not yet ratified the opium convention, be deemed in all respects equivalent to the ratification of that convention."

By the opium convention the Netherlands Government was designated as the depository of ratifications and the collector of data respecting the traffic. This Government requested the League,[2] in view of Art. 23 of the Covenant, to assume the duties placed upon it by the convention with regard to the collection of data and dealing with disputes. This proposal was accepted by the First Assembly. The task of securing ratifications was intrusted to the League. By April 1, 1928, the convention had been ratified by all

[1] *Treaty Series*, VIII, p. 188.

[2] *Records of the First Assembly, Meetings of Committees*, I, p. 181.

states except Afghanistan, Argentine Republic, Lithuania, Paraguay, Persia, Russia and Turkey, which had taken an obligation to ratify.[1]

International Engagements

Continuing from this basis the League prepared and held two opium conferences [2] in 1924–25, the conventions of which became in 1928 the starting point of its work in this field.

The Second Conference, convened for carrying out the provisions of the 1912 Convention for limitation of the manufacture and production of opium and its derivatives to the amount required for medicinal and scientific purposes, sat from November 17, 1924, to February 19, 1925, and was attended by representatives of 41 Governments. The United States delegation withdrew on February 6, 1925, on the ground that "the conference is unable to accomplish" strict limitation of raw opium and coca leaves to medical and scientific purposes.

The convention of the Second Opium Conference, signed at Geneva, February 19, 1925, came into force September 25, 1928.[3] It is in replacement of Chaps. I, III and V of the 1912 convention. The 1925 conventions replace the 1912 convention and "complete and strengthen its provisions."

The convention of 1925 contains seven chapters. Chap. I gives definitions of raw opium, medicinal opium, morphine, diacetylmorphine, coca leaf, crude cocaine, cocaine, ecgonine and Indian hemp; five definitions being addi-

[1] Treaty of peace, Lausanne, July 24, 1923, Art. 100, 9 (*Treaty Series*, XXVIII, p. 87).

[2] For full account see *The International Opium Conferences*, by Raymond L. Buell (World Peace Foundation Pamphlets, VIII, Nos. 2–3).

[3] *Official Journal*, VI, p. 689; Reg. No. 1845. Ratifications: Australia, Austria, Belgium, British Empire, Bulgaria, Canada, Czechoslovakia, France, India, Japan, Latvia, Luxemburg, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Poland and Free City of Danzig, Portugal, Spain, Sudan, Union of South Africa. Accessions: State of Sarawak, Bahamas, Free City of Danzig, Dominican Republic, Egypt, Finland, San Marino, Monaco, New Hebrides, Rumania, Salvador. Subject to ratification: Boïvia, Italy, Venezuela.

tional to those of 1912. Chap. II relates to internal control, the parties undertaking to enact laws and regulations for the effective control of production, distribution and export of raw opium and to limit the localities of export or import of raw opium or coca leaves. Chap. III, internal control of manufactured drugs, applies to the drugs listed above, preparations of them, and any other narcotic drug which is found liable to similar abuse by the Health Committee of the League in consultation with the Comité international d'Hygiène publique.[1] The contractants agree to enact effective legislation to "limit exclusively to medical and scientific purposes the manufacture, import, sale, distribution, export and use" of the specified substances. Control shall be exercised over all concerned with them by a license system. Chap. IV applies the principles of the convention to Indian hemp. Chap. V, control of international trade, obligates each contracting party to require separate import or export "authorization to be obtained for each importation [or exportation] of any of the substances" specified. Full details to render this system effective are agreed to, covering such matters as free port handling, bonded warehousing, passage through third countries, etc.

Chap. VI establishes a Permanent Central Board of eight persons, not holding offices dependent on their Governments. The board was appointed by the Council in December, 1928, from persons commanding general confidence and possessing a knowledge of the drug situation in its various phases. "The United States[2] and Germany shall be invited each to nominate one person to participate in these appointments." "The full technical independence of the board in carrying out its duties" is to be assured. Before December 31 each contractant is to send to the board estimates of its requirements of drugs for the following year. An annual report is to be made after the close of

[1] Di'audide, benzoyl-morphine and the morphine esters generally have been so included, and also products under the names of eucodal and dicodide.

[2] Declined to nominate (note of October 1, 1928), but will "endeavor to furnish such information as the Permanent Central Board may request."

each year giving statistics of production, manufacture, stocks on hand, consumption and confiscations, the report to be communicated to contracting parties. Imports and exports are to be reported quarterly. The statistics are to be furnished in such form as "to enable the amounts required in the country for general medical and scientific purposes to be ascertained." Other statistics are to be forwarded "in order to complete the information of the board as to the disposal of the world's supply of raw opium."

If the board concludes from the information at its disposal that excessive quantities of any drug are accumulating in any country or the latter is in danger of becoming a center of illicit traffic, the board may ask for explanations through the Secretary-General of the League. If an explanation is unsatisfactory or none is forthcoming, the board has the right to call the matter to the attention of all contracting Governments and of the Council, as well as to recommend the cessation of exports to that country. The right of a hearing is given to the offending country. The board has the right to publish a report on the matter for communication to all contracting parties. The board may take the same measures of notification to states not parties to the convention. It is the friendly right of contractants to draw the attention of the board to any matter within its competence which appears to require investigation. The board will make an annual report, which will be published.

Chap. VII provides for penal legislation to be passed by the contractants, for legislation to assist the board and for the mutual exchange of all pertinent legislation. Provisions for settling disputes over the text and the customary stipulations respecting accession, ratification, etc., complete the convention.

The protocol [1] consists of an agreement to prevent within

[1] Ratifications: Australia, British Empire, Bulgaria, Canada, Czechoslovakia, India, Japan, Latvia, Luxemburg, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Portugal, Sudan, Union of South Africa. Accessions: State of Sarawak, Bahamas, Egypt, Finland, Rumania, Salvador. Subject to ratification: Bolivia, Venezuela.

five years the smuggling of opium from constituting a serious obstacle to the effective suppression of the use of prepared opium in territories where its use is temporarily authorized.

The final act expresses the hope that the convention be applied in the colonies, possessions, protectorates and territories of the contractants. It urges consideration of prohibiting ships from carrying drugs without export authorization. Cooperation of national authorities in the suppression of illicit traffic and the requirement of sureties from licensed dealers are recommended.

Far Eastern Control

The First Opium Conference, held at Geneva, November 3, 1924, to February 11, 1925, between the representatives of the British Empire, China, France, India, Japan, Netherlands, Portugal and Siam, produced an agreement, a protocol and a final act with the purpose of bringing about "the gradual and effective suppression of the manufacture of, internal trade in and use of prepared opium" in Far Eastern possessions and territories and "of taking all possible steps for achieving the suppression of the use of opium for smoking."

The agreement,[1] which came into force July 28, 1926, makes the importation, sale and distribution of opium a state monopoly, and also the making of the prepared product as soon as circumstances permit. Retail sale by licensed persons only is stipulated, while the system of such sale by salaried persons is to be tried. Sales to minors are prohibited and their presence in smoking divans interdicted. Private dealing in "dross" is prohibited. The export of import opium is to cease, and transit is placed strictly under control. Instruction to discourage the use of prepared opium is advocated. Legislative measures to render illegitimate transactions punishable are contemplated. All obtainable information as to the number of

[1] *Treaty Series*, LI, p. 337. China did not sign. The other participants in the conference have all ratified.

opium smokers is to be reported to the League Secretariat for publication. A further conference is to take place not later than 1929.

The protocol promises the initiation of measures to reduce the use of prepared opium so that it "may be completely suppressed within a period of not more than 15 years." This period will begin when a commission appointed by the League Council determines that measures to prevent the exportation of raw opium make possible the reduction of consumption. If failure to accomplish this should appear, the fact may be brought before the Council; if the decision should result in any state denouncing the protocol, a fresh conference will be held at once. Coordination of effort to effect the complete and final suppression of the use of prepared opium is provided for.

The Assembly recommended the Council to appoint a commission of three to inquire into the situation in Far Eastern countries as regards the use of opium prepared for smoking, measures taken by Governments to give effect to the Hague convention of 1912 and the Geneva agreement, the nature and extent of the illicit traffic in the Far East, the difficulties which it causes in the fulfilment of international obligations and possible remedies. The Assembly expressed the hope that the American Government would permit the commission to visit the Philippines and the United States has agreed to cooperate in this matter.

Duties of the Committee

The Advisory Committee on Traffic in Opium and Other Dangerous Drugs was appointed by the Council at the request of the Assembly on February 21, 1921. It consists of representatives of states chosen by their Governments and three assessors named by the Council. The object is to commit the Governments chiefly concerned either as producers or consumers in the decisions constantly taken. The following 14 countries are represented

on the committee: The Netherlands, Great Britain, France, India, Italy, Japan, China, Siam, Germany, Bolivia, United States, Serb-Croat-Slovene State, Portugal and Switzerland.

Development of the committee's functions has been an arduous task. In 1921, it issued a questionnaire to all Governments to bring out the extent of the world's needs of manufactured drugs for medicinal and scientific use. This questionnaire was sent by the League directly to the United States Government, but when a reply was not received, the request was then forwarded to Washington by the Netherlands Government which had been intrusted with this duty under the 1912 Convention. The United States had a representative at the fourth session of the committee, in an "unofficial and consultative capacity." Under public resolution No. 96, 67th Cong., approved March 2, 1923, which requested the President "to urge upon the Governments of certain nations the immediate necessity of limiting the production of habit-forming drugs and the raw materials from which they are made to the amount actually required for strictly medicinal and scientific purposes," the United States accredited a delegation to the fifth session of the committee and has since participated in its work.

For several years the work of the committee explored the field for types of information that it required, and new phases of the problem, such as the need to study the unification of statistics. The committee has also developed important systems for information and control of illicit traffic.

An exchange of information in regard to drug seizures is in full effect and results in an annual publication of all seizures reported. At first the reports showed an increase in illicit traffic, but the recent tendency has been for the absolute amounts to show an annual decrease.

A survey of national laws, including penalties inflicted for traffic in narcotics, has been made.

A system of import and export certificates, which has

the combined effect of making official records of all licit traffic in drugs and of controlling the traffic, has been in force for several years and by April, 1928, was in operation in 39 states, 39 British colonies, five mandates and six other colonies.[1]

The question of the world's legitimate requirements for drugs has been explored in order to afford a basis for judging the extent of the illicit traffic and providing means to abolish it. A joint subcommittee of the Opium and Health Committees of the League reached the conclusion that the requirement could be fixed at 600 milligrams per head per year, calculated in raw opium with 10% morphine. The Second Opium Conference adopted the Health Committee's revision of 450 milligrams, but pointed out that this made inadequate allowance for the legitimate consumption of morphine, on which adequate information was not available.

Production in Persia

Early in the work of the committee, it was found that a large amount of opium smuggling originated in the Persian Gulf and involved opium produced in Persia. In the spring of 1926, a Commission of Inquiry on Opium Production in Persia paid a visit to that country to determine the possibility of substituting other crops for the very profitable opium poppy. The American Bureau of Social Hygiene contributed 150,000 gold francs toward the expenses of the commission. The report made definite suggestions for the replacement of the opium poppy by other crops. The Persian Government, before the Council on March 11, 1927,[2] was prepared to accept the recommendations in principle, subject to reconsideration after three years. The agricultural problem involved not only substituting other crops for opium but providing irrigation and transport. The Government proposed to exempt from taxation land diverted from opium cultivation and to grant

[1] *Official Journal*, IX, p. 1097.
[2] *Ibid.*, VIII, p. 392.

loans to cultivators reducing their poppy crop. The goodwill of Persia was commended by the Eighth Assembly in 1927.

Administrative Control

A representative of Italy sat on the committee for the first time during its ninth session in 1927. He took the position of a country which is solely concerned with reducing the menace to its population resulting from the overproduction of drugs and which itself produces no opium. He asked for an extraordinary meeting of the committee to study both measures for the limitation and rationing of drug manufacture and the question of smuggling, its causes and measures for its suppression. The 10th session of the committee, September 28–October 8, 1927, was devoted to this program. M. Cavazzoni presented for consideration a model code for the administrative control of the drug traffic. This draft model code has been submitted to Governments for their opinions concerning it.

6. Women and Children

Traffic in Women

Art. 23 of the Covenant provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . (*c*) will intrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children."

Conferences. A conference was held at Paris, July 15–25, 1902, on this subject and a convention signed there on May 18, 1904, to which the United States is a party. A further conference, resulting in a revised convention, was held at Paris, April 18–May 4, 1910. A preliminary conference looking toward a second revision of the 1904 convention at a later date was held at Brussels, October 21–24, 1913. The League's first effort was to bring about this contemplated revision and so to extend the system of pro-

tection along lines that experience had shown to be desirable and feasible. The International Conference on White Slave Traffic was held at Geneva, June 30–July 5, 1921, with 35 states participating.

The international convention for the suppression of the traffic in women and children,[1] opened for signature September 30, 1921, was registered by the Secretariat of the League of Nations on June 15, 1922. By Art. 1 the parties agree to ratify or adhere to the agreement of May 18, 1904, and the convention of May 4, 1910.

The Governments agreed in 1904 to establish or designate an authority to centralize "all information concerning the procuration of women or girls with a view to their debauchery in a foreign country"; to seek to determine the identity of procurers engaged in criminal traffic; to receive declarations of women and girls of foreign nationality surrendered to prostitution and to take measures for their repatriation.

By the 1910 convention states undertake to punish any person debauching either a woman or girl, even with her consent, with a view to commercializing her, though the various acts are accomplished in different countries; to communicate their respective laws to each other and to provide special means of extraditing culprits under the convention. Persons convicted of offenses connected with the white slave traffic are to be listed and the information circulated to contracting Governments. The 1921 convention reiterates these provisions.

The parties to the 1921 convention agree to take appropriate measures for guarding the licensing and supervision of employment agencies and offices so as to insure the protection of women and children seeking employment in another country. In connection with immigration and emigration, they undertake to adopt such measures as are required to check the traffic in women and children and to set up special means of protection at points of departure and arrival.

[1] *Treaty Series*, IX, p. 415.

Advisory Committee's Work

The final act [1] of the conference consisted of 15 recommendations directed by the 35 participating Governments to the Council of the League and substantially became the initial program of the committee suggested by it.

On January 14, 1922, the Council constituted the Advisory Committee on the Traffic in Women and Children, which was organized so as to comprise Government representatives of 10 states, including the United States, and five delegates of associations. The committee was reorganized on December 10, 1924,[2] owing to the relationship established by the League with the International Association for the Promotion of Child Welfare. The reorganized committee bears the title of "Advisory Commission for the Protection and Welfare of Children and Young People."

This committee consists of two sections, with separate assessors, Government representatives having the right to a seat in each. The first section is the "Committee on Traffic in Women and Children," and the second the "Child Welfare Committee." The two committees hold their regular sessions at the same time, the president having the right to convoke the two committees in plenary session for the discussion of any question.

Annual Reports. Annual reports are received from states parties to the existing conventions, including the United States. They deliver their reports for a given year in the first half of the succeeding year, and reply to a questionnaire [3] in which states are requested to report all laws and regulations in force, the central authority charged with executing them, the degree of supervision of emigration and immigration with relation to traffic in and protection of women, and for a statement of their attitude toward the maintenance of licensed houses. Additional information is

[1] *Records of the International Conference on Traffic in Women and Children*, Geneva, 1921, p. 133 (C. 484. M. 339. 1921. IV).

[2] *Official Journal*, VI, p. 135, 221.

[3] *Ibid.*, V, p. 942.

furnished in periodical statements by five international associations represented by assessors on the committee.

Investigations. The American Social Hygiene Association has prepared a collection of the laws and regulations of all countries in respect to the traffic in women, which has been submitted to Governments.

The Ninth Assembly supported the committee's request that "the Governments of all those countries which still retain the licensed-house system will investigate the question as soon as possible." The committee is collecting the laws in force in countries where the system is illegal.

Extensive investigations have brought the committee to favor the general use of women police.

The Council on June 5, 1928, indorsed proposals of the Committee regarding studies of the laws and penalties relating to *souteneurs*, *i.e.*, persons living on the immoral earnings of women.

Many other phases of the traffic are also under study.

Methods of Traffickers

At the request of the Advisory Committee the Council on July 7, 1923, appointed a committee to conduct an international investigation into the extent and scope of the traffic in women. Miss Grace Abbott, the American representative on the committee, who was responsible for the suggestion, later informed the Secretary-General that, as anticipated, an American private organization, the Bureau of Social Hygiene, Inc., would provide $75,000 for the investigation.

In February, 1927, the Special Body of Experts drew up and unanimously adopted a general report on the results of its two years' investigation, which had taken place under the direction of Bascom Johnson (American). The first source of information was official. Valuable information had been obtained by means of the replies sent by Governments in answer to the specially framed questionnaire; and much other valuable information had been given to the investigators on the spot in conversation

with Government officials and others. The other main source of information was persons connected with this traffic. No fewer than 6,500 persons were interviewed, about 5,000 of whom were connected with commercialized prostitution.

The report [1] was presented to the Council [2] on March 9, 1927, in two parts, the first giving a concise account of the facts disclosed by the inquiry and a statement of the conclusions based upon them; the second a more detailed statement of evidence derived from various sources and arranged according to the 28 countries and 112 cities visited. The first part was published immediately, while the detailed reports on countries were sent to the Governments for their observations. These were examined by the experts in November and the second part of the report as then revised by them was published. The Ninth Assembly indorsed a proposal that the inquiry should be continued in other countries.

Child Welfare Committee

The International Association for the Promotion of Child Welfare, on its own application, was placed under the direction of the League by resolution of the Council in March, 1924, at which time the Council decided that the work hitherto carried out by the association should in the future be intrusted to the Secretariat, subject to ratification by the Assembly. The Fifth Assembly ratified this decision and also indorsed, and invited states Members of the League to be guided by, the principles of the "Declaration of Geneva," which reads:

> By the present Declaration of the Rights of the Child, commonly known as the Declaration of Geneva, men and women of all nations, recognizing that mankind owes to the child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

[1] *Report of the Special Body of Experts on Traffic in Women and Children* (C. 52. M. 52. 1927. IV. 2).

[2] *Official Journal*, VIII, p. 378.

I. The child must be given the means requisite for its normal development, both materially and spiritually;

II. The child that is hungry must be fed; the child that is sick must be helped; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;

III. The child must be the first to receive relief in times of distress;

IV. The child must be put in a position to earn a livelihood and must be protected against every form of exploitation;

V. The child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men.

The original reorganization of the advisory Committee in 1924 [1] left the new work to a subcommittee, called the Committee for the Protection of Children which assumed separate form in 1926. For the new duties the Council added a group of new assessors and also a representative of Belgium to the Government representatives. In addition [2] it authorized five organizations to be represented as a matter of interest: International Council of Women, the International Suffrage Alliance, the International Federation of University Women, the Women's International League for Peace and Freedom and the World's Young Women's Christian Association.

Program. The Fifth Assembly expressed the opinion that the League could most usefully concern itself with the study of those problems on which the comparison of the methods and experience of different countries, consultation and exchange of views between the officials or experts of different countries, and international cooperation might be likely to assist the Governments in dealing with such problems. In 1926 the committee developed an elaborate general program. The Council, commenting on the limits of the committee's competence, adopted a report [3] in which it said: "Child welfare is not primarily a matter for international action and, as the resolution of the Assembly indicated, the purposes which the League can serve in this direction are limited."

[1] *Official Journal*, VI, p. 135, 221.
[2] *Ibid.*, p. 463.
[3] *Ibid.*, VII, p. 865.

Reconsideration of the program resulted in a Liaison Subcommittee to cooperate with other League committees. The Ninth Assembly emphasized the value of its preparation of preliminary draft conventions on

The repatriation of minors who have escaped from the authority of their parents or guardians;

The relief of minors of foreign nationality. This draft would be in the nature of a model scheme, with a view to facilitating subsequent work on the question and for application between interested countries.

The execution of judgments relating to maintenance payable on behalf of children by persons responsible for their support who have deserted them and gone abroad.

The committee helped organize and takes a particular interest in the International Cinematographic Institute, especially with respect to the creation of offices for control or preliminary censorship in each country and the adoption of hygiene and sanitary measures.

Prevention of Blindness. In 1928 L. W. Carris, director of the American Association for the Prevention of Blindness, laid before the committee a scheme for the creation of an international organization to deal with this subject.

Juvenile Courts. An inquiry into the scope, composition and practice of juvenile courts conducted by the International Prison Commission is coordinated with the committee's work.

Dangers to Children. The American Social Hygiene Association has placed $5,000 at the disposition of the League for child welfare work. The Friends of the League of Nations, an American society with headquarters at Richmond, Va., has contributed $1,500 to the League and these amounts are to be used in a study of environment in relation to moral and social dangers to children in Canada, Czechoslovakia, Denmark, France, Germany, Great Britain, Italy and the United States.

Illegitimacy. A report has been sent to all states on a questionnaire bearing on the rights and obligations of parents toward illegitimate children, affiliation proceedings, the legitimization of illegitimate children, the mainte-

nance, inheritance or succession rights of illegitimate children, the official guardianship and the moral and material protection of illegitimate children.[1]

Legal Age of Marriage and Consent. The Advisory Commission as a whole has studied these questions. In 1927 it expressed the opinion that the fixing of too early an age of consent was likely to encourage the traffic in women. It accordingly requested the Council to draw the attention of Governments to the necessity of fixing this age sufficiently late to insure the effective protection of children and young people. In 1928 it concluded that it was desirable that the legal age of marriage should be high enough to provide full safeguards as regards the health both of the married persons themselves and of the children of the marriage. It was nevertheless of the opinion that no single age limit could be made applicable to all countries. The commission recommended that Governments should examine the age of marriage fixed in their respective laws with relation to physical and moral welfare.

Obscene Publications

The International Conference for the Suppression of the Circulation of and Traffic in Obscene Publications met, by the invitation of the Government of the French Republic, at Geneva, under the auspices of the League of Nations, from August 31–September 12, 1923, in pursuance of a resolution of the Third Assembly on September 28, 1922.[2] In conformity with the resolution, the draft convention established by the international conference held at Paris in 1910, together with a questionnaire, was communicated on November 1, 1922, to all states. The replies to this questionnaire were transmitted by the Secretariat to all states and submitted to the conference.

The international convention[3] for suppression of the circulation of and traffic in obscene publications, signed at

[1] *Official Journal*, VIII, p. 915.

[2] *Resolutions and Recommendations . . .* 1922, p. 34.

[3] *Treaty Series*, XXVII, p. 214.

Geneva September 12, 1923, by 43 states entered into force on August 7, 1924. It is additional to the arrangement signed at Paris, May 4, 1910, which provides that the contracting parties are to designate an authority:

(1) To centralize information to aid in repressing infringements of their municipal laws as to obscene matter, "the constitutive elements of which bear an international character;"

(2) To supply all information tending to check the importation and to expedite the seizure of such matter;

(3) To communicate to each other all laws applicable to the subject.

The authorities of the states are empowered to correspond directly.

By the 1923 convention the parties agree to take measures to define as punishable offenses, which they would seek to suppress, the production, possession, distribution, exhibition, importation and exportation of obscene matters or things. Commerce in such articles and advertising them are likewise punishable offenses. Such offenses are brought within the jurisdiction of the courts of the country where the offense or any of its elements are committed. If the laws permit, an offense committed abroad is punishable in the offender's national courts. States undertake to improve their legislation so as to provide means of carrying out these provisions and those relating to the rendition of offenders, as well as to make possible the seizure, detention or destruction of offending materials.

By Art. 16 of the convention the Council is called upon to consider the desirability of summoning a conference at the end of each period of five years to discuss revision. This point had been referred to the Traffic in Women Committee, which at its 1928 session reached the conclusion that the time had not yet come for a further conference. That committee is collecting annually reports on legislation in force.

7. Refugees and Relief of Distress

The refugee problem has been before the League since 1920. It first presented itself as a task of repatriating or caring for hundreds of thousands of persons whom the war had torn from their own homes and driven into other countries. The influx of these disorganized and destitute masses of humanity into several countries created a special problem. Dr. Fridtjof Nansen, as High Commissioner of the League, met those conditions with aid provided by various states, and now for several years has been working on the second phase of the problem, which concerns improving the anomalous status of the refugees, their employment and settlement.

The first great humanitarian accomplishment was the repatriation of 430,000 prisoners of war belonging to 26 different nations. They were returned to their homes at an average cost of less than $5.00 per person. The wholesale evacuation of Greeks and others from Asia Minor had thrown 1,500,000 refugees into Greece. Destitution and pestilence accompanied them and the necessity for rehabilitation resulted in coordination of relief measures, finally [1] taking the form of the Greek Refugee Settlement Scheme, and similarly the Bulgarian refugee settlement of 200,000 persons. Over 1,500,000 Russian refugees, scattered throughout Europe, the Near and Far East, required much attention, and particularly assistance in establishing their identity for traveling purposes. The same problem existed for 300,000 Armenian refugees.

In June, 1924, the refugee problem had resolved itself essentially into the placement in useful employment of 200,000 Russian and 200,000 Armenian refugees. The Director of the International Labor Office was approached and recognized that the questions of employment and labor emigration fell within the scope of the Organization. Some 50 Governments accept the identity certificates for

[1] See p. 64.

Russians and 35 for Armenians,[1] and many thousands have been settled in countries where labor is scarce.

In 1928 other groups of unfortunates were brought within the scope of this task. There were 15,000 Assyrians and Assyro-Chaldeans in southern Russia who were unable to establish themselves and wished for passports and employment elsewhere. In Iraq and Syria there were respectively 12,000 and 1,500 Assyrians who wished to be settled as colonists in Syria and Lebanon and Iraq under the direct protection of the mandatory states. Refugees of Turkish nationality, proscribed by their Government, were living in various countries of Europe.

The 1928 Assembly called attention to the fact that a complete solution of the remaining problem would only be realized by the repatriation of the refugees in their original countries or their naturalization in the countries giving them shelter. Efforts are being made toward this end.

The 1928 Assembly finally decided that the establishment of Armenian refugees in the Republic of Erivan[2] shall be carried on under the auspices of the League. This scheme will cost about $7,500,000 for irrigation and other purposes.[3] Seventeen Governments have offered funds and Armenian organizations have contributed $500,000.

Greek Refugee Settlement Commission

After the retreat of the Greek army from Turkish territory in 1922, hundreds of thousands of the inhabitants sought refuge in Greece, some reaching there by their own efforts and others being concentrated and transported by Fridtjof Nansen, High Commissioner of the League for Refugees. The treaty of Lausanne required members of the Greek Orthodox Church established in Turkey to emigrate to Greece. Ultimately a million and a half persons

[1] See p. 79.

[2] The Armenian Socialist Soviet Republic is a part of the Transcaucasian Socialist Federal Soviet Republic, and includes portions of the former Russian provinces of Erivan, Alexandropol and Elizavetpol.

[3] *Scheme for the Settlement of Armenian Refugees. General Survey and Principal Documents.* (C. 699. M. 264. 1926. IV. 1927. IV. 1.)

were refugees there.[1] The problem involved in caring for them became very serious for the country. They represented a fifth of its population; they were largely without funds; they had no means of support; and Greece itself was going through an economic and political crisis due to 12 years of intermittent war.

American and British charitable organizations did much for the refugees in the first months, but the acuteness of the situation was emphasized by a note of March 31, 1923, from the American Secretary of State announcing that the American Red Cross would discontinue its emergency work on June 30 for fully 500,000 persons.

The Council appointed a Greek Committee on February 2, 1923,[2] and a scheme for refugee settlement was reported by the Financial Committee after investigations on the ground. On September 29, 1923, a Greek representative signed a protocol approved by the Council, which established the Greek Refugee Settlement Commission. This and the accompanying statute were re-enacted in revised form on September 19, 1924.[3]

While a long-term loan was an essential condition for permanent solution of the problem, the unstable Greek political situation in 1923 made any loan uncertain. The Financial Committee of the League limited the possible loan to a maximum of £6,000,000 (about $30,000,000) three-fifths of the required amount. Political instability, however, rendered it inadvisable to proceed with even that flotation. Realizing the critical need of aid, the Bank of England and the Bank of Greece agreed to advance £1,000,000 if an independent refugee settlement commission as planned were established. It was in presence of that offer that the signing of the 1923 protocol took place.

The commission, of which Henry Morgenthau, former

[1] See illustrated volume, *Greek Refugee Settlement* (1926. II. 32).

[2] *Official Journal*, IV, p. 234.

[3] *Treaty Series*, XXX, p. 413; *Official Journal*, V. p. 1558; *Monthly Summary*, IV, Sup., p. 26. The additional act was ratified by Greece on December 4, 1924. The declaration relating to the modifications made to the protocol by the additional act is in *Treaty Series*, XXX, p. 421.

American ambassador at Constantinople, was chairman,[1] first met at Salonika on November 11, 1923. Equipped with funds and with the settlement work already under way, the commission's activities brought the first £1,000,000 near exhaustion by May, 1924. A second advance of £1,000,000 by the Banks of England and Greece and a further £1,000,000 from the Bank of Greece and the Greek Government insured the progress of the work till 1925. Meantime, political stability had been established in Greece.

The acceptance of the revised protocol in September, 1924, opened the way to put the undertaking upon the permanent basis of a long-term international loan.[2] This reconstruction task differed in essential respects from the Austrian and Hungarian plans. Greek finances were not in themselves at issue, the Government requiring no aid for its normal operations. The scheme, yielding £10,000,000 ($50,000,000) in a long-term loan floated in December, 1924, provided for governmental guaranties, but it was adequately secured as well by title to land transferred by the Greek Government to the commission, by the improvements being made on the land and by the settlers' taxes, mortgages and rents. The loan is intrinsically productive, and the scheme itself is primarily a huge development project, largely in Macedonia which was formerly a territory of deserted plains and uncultivated fields.

By the end of 1928 the commission had spent nearly £8,000,000 ($40,000,000) on agricultural settlement and more than £1,000,000 ($5,000,000) on urban settlement. It had settled more than 143,000 families on the land and 28,000 in urban districts. Over 8,000,000 stremmas (1,976,800 acres) of land[3] had been apportioned, 76,000 houses were built and 7,000 under construction. Since 1923 the area under cultivation almost doubled; the total

[1] Succeeded by Charles P. Howland and then by Charles B. Eddy.

[2] For loan agreements, see p. 66.

[3] See decree, *Official Journal*, VII, p. 1333.

wheat crop rose from 600,000 tons in 1922 to over 900,000 tons in the last two harvests. The output of tobacco has been doubled by refugees. An additional $12,167,000 from the United States is expected to complete the work.

Bulgarian Refugees

On June 10, 1926, the Council considered a request from the Bulgarian Government[1] for the League's assistance in carrying out a scheme of settlement for Bulgarian refugees. The Financial Committee stated, in its report,[2] that the Bulgarian Government had since 1913 had to receive about 52,000 families, representing roughly 200,000 persons. Thirty thousand refugees had been or could be established by the Government, which had spent 160,000,000 leva on general settlement work. There remained about 60,000 workers to be settled on the land, that is to say, some 33,000 families. This settlement would present great advantages from the point of view of Bulgaria's internal politics and external relations and also add to the economic resources of the country. The committee submitted that a loan of a net yield equivalent to £2,250,000 ($11,250,000) would be sufficient.

The product of the loan was paid into an account independently controlled by the League commissioner, who only supervises the expenditure. Assistance is limited to Bulgarian citizens. The Bulgarian Government came to an agreement with the bond-holders of prewar loans, made arrangements in respect of previous liens, and brought the statutes of the National Bank into conformity with the best principles of central banking. Revenues were assigned for the loan service and for this purpose an arrangement was made with the reparation authorities.

A draft protocol was approved by the Council and signed by Bulgaria on September 8, 1926.[3] This instru-

[1] *Official Journal*, VII, p. 1002. All pertinent documents are in "Scheme for the Settlement of Bulgarian Refugees. General Description and Principal Documents" (1926. II. 53).

[2] *Official Journal*, VII, p. 920.

[3] *Ibid.*, p. 1343.

ment provides for the appointment by the Council of a commissioner who will report to the Council at least every three months, control the proceeds of the loan and approve all plans of settlement. He is free to refuse to release sums drawn from the loan, if he is not sure that the monies previously released have been spent as authorized by him. The Bulgarian Government undertakes to centralize all services dealing with refugees. For the settlement work, it undertakes to provide at least 132,000 hectares of land suitable for agriculture, the character and situation of which must be approved by the commissioner. The loan was issued December 24, 1926.

The 1928 earthquake did much damage, but about 30,000 families had been furnished with land by the end of 1928. The remaining 3,000 will be established on land reclaimed for cultivation by marsh drainage and flood protection works. More than 2,000 houses had been built and large quantities of equipment and draft animals distributed. Considerable progress had been made in eradicating malaria with the aid of the League Health Organization and the Rockefeller Foundation.

International Relief

Senator Giovanni Ciraolo, president of the Italian Red Cross, proposed to the League the organization of an international federation for mutual assistance in the relief of peoples overtaken by disaster. The 1924 Assembly requested the Council to appoint a Preparatory Committee to determine the exact scope of the proposed international union's activities, the needs it would be designed to meet and the contributions required from each state.[1] The Preparatory Committee was named by the Council on December 11, 1924.[2] A draft statute was submitted to Governments, revised in accordance with their suggestions,[3]

[1] *Resolutions and Recommendations* . . . 1924, p. 41.

[2] *Official Journal*, VI, p. 148.

[3] *Ibid.*, VII, p. 178; the revised text is at p. 338.

and perfected at a conference in which delegates from 41 countries took part.

The convention and statute[1] of July 12, 1927, constitute a Union at Geneva between states on the principle of official international solidarity and mutual aid in case of disaster. Each state undertakes to contribute to an initial fund a share equal to 700 Swiss francs for each unit in its quota of the League budget. The Union's remaining resources will be voluntary contributions and with their aid it will be possible constantly to replenish the initial fund.

It will be able to send first aid without waiting for the result of appeals to the public in case of disasters. This prompt dispatch of first aid is now lacking when it would be most useful. In addition to rendering first aid, the Union is to coordinate the efforts of relief organizations in the event of disaster, to encourage the study of preventive measures against disasters, and to induce all peoples to render mutual international assistance. Although the Union has been constituted between states, it contemplates an extremely close cooperation with nonofficial organizations, in particular with the Red Cross Societies. States which desire to do so may be represented by the national Red Cross Society.

The International Relief Union will operate for the benefit of all stricken peoples regardless of race, nationality, or political or religious considerations. Its activities will nevertheless be limited to disasters occurring in the territories of members of the Union, or of a nature to affect those territories. The convention will come into force when ratified or acceded to by 12 states, and when the combined contributions amount to 600 shares (420,000 Swiss francs or $84,000).

Under the statutes, the Union will be directed by a General Council, which will appoint an Executive Committee. The General Council will meet every two years

[1] *Ibid.*, VIII, p. 997. They had been signed by Belgium, Bulgaria, Colombia, Cuba, Danzig, Ecuador, Finland, France, Germany, Guatemala, Italy, Monaco, Poland, Rumania, Spain, Turkey and Uruguay. Ecuador, Egypt and Italy have ratified and the Sudan has acceded.

as the deliberative and constitutional body, and will be composed of one delegate each from all the members of the Union. The Secretary-General of the League may attend or be represented at all meetings of the General Council and the Executive Committee. Decisions will be by majority vote. The Executive Committee will be composed of seven members appointed by the General Council for two years, and two representatives of the international organizations of the Red Cross in an advisory capacity. It will meet at least once a year, administer funds and represent the Union in dealing with the League, with Governments, and with organizations. It will have power to act on behalf of the Union and to organize relief.

8. Mandates and Backward Peoples

The mandatory system is adopted by Member states in Art. 22 of the Covenant, in which it is defined as follows:

> To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.
>
> The best method of giving practical effect to this principle is that the tutelage of such peoples should be intrusted to advanced nations who, by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.
>
> The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

The territories affected are (1) those over which Germany renounced all rights and titles "in favor of the Principal Allied and Associated Powers" by Art. 119 of the treaty of Versailles; and (2) the territories defined as mandates in Part III, Sec. 7, of the treaty of peace with Turkey signed

at Sèvres, August 10, 1920. These former Turkish territories were being administered under mandate when the treaty of Lausanne was signed on July 24, 1923; in the negotiation of that treaty Turkey, as the victor state, made no claim for a change of their status.

The territories thus falling to be administered by mandate were allocated to mandatory states by decision of the Principal Allied and Associated Powers taken at the Paris Peace Conference on May 5, 1919. The states concerned drafted mandates [1] which were submitted to the Council of the League and eventually accepted by it after delays due to negotiations undertaken or initiated by the United States with the mandatories with a view to securing rights accruing to it under Art. 119 of the treaty of Versailles.

Classes

The mandates are divided into three classes as follows:

"A" class: "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory." — *Covenant*, Art. 22, par. 4.

Territory	Mandatory	Terms Defined by Council
Palestine [2,3]	Great Britain	July 24, 1922
Trans-Jordania	Great Britain	Sept. 16, 1922
Syria and Lebanon [2,3]	France	July 24, 1922
Mesopotamia (Iraq)	Great Britain	– –

Trans-Jordania comprises "all territory lying to the east of a line drawn from a point two miles west of the town of Akaba on the gulf of that name up the center of the Wady Araba, Dead

[1] The terms of the mandates are separately printed.

[2] These mandates after approval were to enter into force automatically and at the same time following agreement reached between the Governments of France and Italy on the subject of the mandate for Syria. Complete agreement between those Governments was notified to the Council on September 29, 1923. (*Official Journal*, IV, p. 1355.)

[3] The United States has negotiated a separate treaty with the mandatory; for American policy see *Mandate for Palestine* (Washington, Government Printing Office, 1927).

Sea, and River Jordan to its junction with the River Yarmuk; thence up the center of that river to the Syrian frontier." By Art. 25 of the mandate for Palestine, Great Britain as the mandatory was entitled, with the consent of the Council, to postpone or withhold application of the mandate to that territory, principally because a native rule had been established there under the Emir Abdullah.[1] Up to 1924 the Trans-Jordanian territory was dealt with in the report on Palestine.[2] The Permanent Mandates Commission in its Fifth Session on October 28, 1924, raised the question of a separate report for Trans-Jordania, which was agreed to by the representative of the mandatory. On February 20, 1928, Great Britain recognized in a signed agreement the independence of the Government of Trans-Jordania, the mandate continuing in force.

Iraq (Mesopotamia) was originally contemplated as an "A" mandate. The inhabitants of the territory set up a monarchical form of government and concluded a treaty of alliance with the British Government on October 10, 1922.[3] A protocol accessory to the treaty was signed on April 30, 1923, and four subsidiary agreements on March 25, 1924. As a consequence of the relationships thus established, the mandatory status was recognized as no longer fully applicable to Iraq. The British representative applied to the Council and the latter on September 27, 1924, adopted in a resolution a unilateral undertaking of the British Government implementing the mandate.[4] On December 14, 1927, Iraq and the United Kingdom signed a treaty to replace that of 1922. By Art. 1 of this treaty "his Britannic Majesty recognizes Iraq as an independent and sovereign state." By Art. 8, "provided the present rate of progress in Iraq is maintained and all goes well in the interval, his Britannic Majesty will support the candidature of Iraq for admission to the League in 1932." Iraq undertakes to accede to general international agreements concluded with the approval of the League of Nations with respect to various matters; undertakes to execute the provisions of the Covenant and certain other treaties so far as they apply to Iraq and to cooperate in social, humanitarian and other activities. With respect to Great Britain, the position of the High Commis-

[1] *Official Journal*, III, p. 1189, 1390; IV, p. 212.

[2] Permanent Mandates Commission, *Minutes of the Fifth Session*, p. 60.

[3] *Official Journal*, III, p. 1505; *Treaty Series*, XXXV, p. 131–74.

[4] *Ibid*, V, p. 1346, 1347.

sioner is defined and provision is made for the supersession of financial, military and judicial agreements.

Syria and Lebanon by Art. 1 of the mandate are to be governed under an Organic Law, which has not been promulgated. On March 12, 1927, the French representative stated to the Council,[1] that the mandatory state was actively pursuing its efforts to issue such a law. The cause of the delay was explained as due to the diversity of the communities, their conflicting rights, interests and wishes, and the desire expressed by several of them for an autonomous political régime. A provisional statute has been drawn up for each district in which a sufficient measure of agreement has been reached among the various groups of inhabitants.

"B" class: "Other peoples, especially those of Central Africa, are at such a stage that the mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League." — *Covenant*, Art. 22, par. 5.

Territory	Mandatory	Terms Defined by Council
Cameroons	France [2]	July 18, 1922
Cameroons	Great Britain[2]	July 18, 1922
Ruanda Urundi	Belgium[2]	July 18, 1922
Tanganyika	Great Britain[2]	July 18, 1922
Togoland	France [2]	July 18, 1922
Togoland	Great Britain[2]	July 18, 1922

"C" class: "There are territories, such as Southwest Africa and certain of the South Pacific islands, which, owing to the sparseness of their population or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the mandatory, and other circumstances, can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interest of the indigenous population." — *Covenant*, Art. 22, par. 6.

[1] *Official Journal*, VIII, p. 417.

[2] The United States has negotiated a separate treaty with the mandatory.

Territory	Mandatory	Terms Defined by Council
Southwest Africa Caprivi Zipfel	Union of South Africa	Dec. 17, 1920
Western Samoa	New Zealand	Dec. 17, 1920
Nauru	Great Britain and Australia	Dec. 17, 1920
Former German Pacific islands south of Equator	Australia	Dec. 17, 1920
Former German Pacific islands north of Equator	Japan [1]	Dec. 17, 1920

Nauru was allocated as a mandate of the British Empire by an agreement on July 2, 1919, between the London Government and those of the Commonwealth of Australia and the Dominion of New Zealand. The island is under an administrator appointed for the first term of five years by the Australian Government. There is a board of three commissioners, one appointed by each Government. The island comprises about 5,396.3 acres, of which 4,216.5 are phosphate-bearing.

Caprivi Zipfel. The Southwest Africa mandate lies on the Atlantic coast of Africa, bounded on the north by Portuguese Angola, on the east by Bechuanaland Protectorate and on the south by the Union of South Africa, which is the mandatory. From the Okavango River on the north border a narrow strip between Angola and Bechuanaland extends eastward to the Zambesi River. This district contains 10,573 square miles and is known as Caprivi Zipfel. A special report on it has been submitted since 1925.

Permanent Mandates Commission

"In every case of mandate the mandatory shall render to the Council an annual report in reference to the territory committed to its charge," says Art. 22, par. 7, of the Covenant, which continues: "A permanent commission shall be constituted to receive and examine the annual reports of the mandatories and to advise the Council on all matters relating to the observance of the mandates."

[1] The United States has negotiated a separate treaty with the mandatory.

The Permanent Mandates Commission was constituted by the Council on November 29, 1920. The commission consists of ten [1] members, the majority of whom are nationals of nonmandatory states, "appointed by the Council and selected for their personal merits and competence. They shall not hold any office which puts them in a position of direct dependence on their Governments while members of the commission." [2]

The commission receives the annual reports respecting each mandated territory from authorized representatives of the mandatory, who may offer supplementary explanations or information. The reports are examined in the presence of these authorized representatives, who may participate in the discussion. The commission determines its conclusions and recommendations without the representative being present; but its observations are communicated to him and he is entitled to submit comments. Both documents are forwarded to the Council. Since 1925 mandatories delegate senior officials holding responsible administrative posts in the mandated territories to represent them before the commission.

The meetings of the commission have been increasingly searching inquisitions into the conduct of the administration of the mandates. Each mandate has its special problems ranging from the supervision of autonomous institutions in "A" mandates down through the safeguarding of the interests of primitive peoples in some of the "C" mandates. Reports of the mandatories [3] are annually being developed as a result of requests by the commission for information.

The commission receives petitions from responsible persons respecting the conduct of the mandates, and weighs their allegations in connection with statements made by the mandatory Governments.

[1] On the appointment of the tenth (German) member in 1927 see *Official Journal*, VIII, p. 1257, 1132.

[2] Resolution of the Council, November 29, 1920, *Official Journal*, I, No. 8, p. 87.

[3] The reports are available separately.

Petitions. Petitions relating to the administration of the Palestine mandate have been brought before many sessions of the Commission.[1] These emanate chiefly from the Ashkenasic Community in Jerusalem, the Palestine Arab Congress, the Zionist Organization, the Agudath Israel Organization and the National Council of the Jews of Palestine.

Other petitions have dealt with conditions in Syria and Lebanon, especially in 1925 and 1926. The Rehoboth Community in Southwest Africa has frequently petitioned. Western Samoa and Togoland under French mandate have been the subject of other petitions. In many cases the grievances have been due to misunderstandings; in other cases complaints have resulted in satisfactory adjustments.

General Decisions

In addition to the terms of the mandates, which are calculated to insure all proper guaranties to peoples under mandate, the commission has secured rulings on various important points:

Territorial Status. The preamble of a frontier agreement[2] between the Portuguese colony of Angola and the Union of South Africa stated that "the Union of South Africa, subject to the terms of the said mandate, possesses sovereignty over the territory of Southwest Africa." The Commission expressed its doubt whether this expression could be held correctly to define the relations between the mandatory power and the territory placed under its mandate.[3]

On September 8, 1927, the rapporteur of the Council stated that, the legal relationship between the mandatories and the territories under mandate "is clearly a new one in international law, and for this reason the use of some of the time-honored terminology in the same way as

[1] See for examples *Minutes of the 9th session*, p. 202, 227; *Official Journal*, IV, p. 298; VII, p. 1318.

[2] *Treaty Series*, LXX, p. 305.

[3] *Official Journal*, VIII, p. 347, 426.

previously is perhaps sometimes inappropriate to the new conditions."[1]

Nationality. On the national status of inhabitants of territories under "B" and "C" mandates the commission has concluded:[2]

1. It is important . . . that the native inhabitants of B and C mandated territories should be granted a national status wholly distinct from that of the nationals of the mandatory power.
2. A special law of the mandatory power should determine the status of these native inhabitants, who might be given a designation such as "administered persons under mandate" or "protected persons under mandate" of the mandatory power.

Military Recruiting. "The spirit, if not the letter, of the mandate would be violated if the mandatory enlists the natives of the mandated territory (wherever they may present themselves for engagement) for services in any military corps or body of constabulary which is not permanently quartered in the territory and used solely for its defense or the preservation of order within it."[3]

State Land. "The mandatory powers do not possess in virtue of Arts. 120 and 257 (par. 2) of the treaty of Versailles any right over any part of the territory under mandate other than that resulting from their having been intrusted with the administration of the territory."[3]

Equality of Treatment. "Mandates A and B lay down the principle of economic equality for all nationals of states Members of the League and for goods coming from these countries. These nationals and goods therefore benefit *ipso facto* in A and B mandated territories by a clause which is practically equivalent to the granting of most-favored-nation treatment."[4]

Liquor Traffic. The commission having defined "liquor" for mandate purposes,[5] in 1928 asked states to inform it

[1] *Official Journal*, VIII, p. 1120.
[2] *Ibid.*, IV, p. 659.
[3] *Ibid.*, VII, p. 867, 944.
[4] *Ibid.*, IX, p. 1448.
[5] *Ibid.*, VIII, p. 426, 347.

to which parts of the territory under their mandate they had already applied Art. 4, par. 2, of the St. Germain convention on liquor traffic in Africa.

Capital. On September 15, 1925, the Council declared that the validity of financial obligations assumed by a mandatory on behalf of a mandated territory and all rights regularly acquired under the mandatory régime, were in no way impaired by administration under mandate. The cessation or transfer of a mandate could not take place unless the Council had been assured in advance that the financial obligations regularly assumed by the former mandatory would be carried out.[1]

In Iraq the capital of the Turkish Petroleum Company has been distributed 23.75% to each of four national groups and the remaining 5% to the developer of the project. No two groups have a voting majority.

Application of Treaties. The Council in 1925[2] recommended that all states which had concluded special treaties or conventions with mandatory states, should agree to the extension of such agreements to mandated territories. It further requested mandatory states to insert in future agreements a clause providing for the possibility of their extension to mandated territories.[2]

Operation of the System

The mandate system has maintained a steadily widening control for the benefit of native populations over the territories affected by it. The annual reports of the mandatory Governments have been increased in detail as a result of the commission's desire for full information, and present a reasonably complete picture of conditions and development. It is notable that the administration of most of the mandated territories has been successful enough in dealing with the natives that petitions have not reached the commission.

[1] *Official Journal*, VI, p. 435, 495, 1363, 1513.
[2] *Ibid.*, p. 856, 1363.

Managing mandates is a delicate business, touching upon all phases of life. That the system should not always run smoothly and without friction is consequently inevitable. Three instances may show both the difficulties involved and the manner of conducting supervision.

Western Samoa. In 1927 marked native disaffection appeared. The New Zealand Government investigated and found a European copra merchant, who was close to certain native groups, the chief of its critics. A commission of inquiry looked into the matter thoroughly, the European was expelled and the affair was carefully examined at Geneva in October, 1928, when various improvements in the administrative action and relations to the native Samoan parliamentary body were discussed.

Palestine is regarded as the Jewish National Home. It is in reality largely inhabited by Arabs. The contact of new Jewish immigrants with the Arabs already settled there has produced innumerable frictional incidents. While these are far from ended, the commission has observed signs of decreased tension and a growing disposition of the parties to cooperate with the mandatory in working toward an equitable solution.

Syria and Lebanon. The only incident attracting worldwide attention culminated in the bombardment of Damascus in October, 1925. The Syria and Lebanon mandate is a conglomeration of races and religions, with an upper class opposed to outside control and the remainder of the population now incapable of self-government. The bombardment of Damascus by the French mandatory was part of a campaign against the Jebel Druse tribe, which was in full rebellion. The Mandates Commission held a special session on the situation thus brought to light at Rome, February 16–March 6, 1926. While French statements of intentions and policy in Syria and Lebanon were found to be satisfactory, it was found that the military administration which had actually been in force was not only badly chosen for coping with the situation but was also inept and provocative. An extensive change

of officials, including a capable high commissioner to replace General Sarrail, was the chief reform effected. The Committee realized that very complicated native conditions existed. By 1927 revolt had disappeared and progress toward a system of native self-government under the overdue Organic Law was being made.[1]

Slavery Convention

Largely due to the information called to the attention of the Assembly and Council by the work of the Permanent Mandates Commission, a questionnaire respecting the existence of slavery was circulated to states in 1922. The 1923 Assembly expressed regret that the information thus supplied was insufficient "to form the basis of a sufficiently complete report" and suggested appointment of a commission by the Council. The Temporary Committee on Slavery was appointed by the Council on June 12, 1924.[2] The report of the commission, containing suggestions to be submitted to the Council, showed the various aspects of the alienation or restriction of individual freedom, and recommended practical measures for joint action.[3] In the Sixth Assembly the Sixth Committee drew up a convention, which Governments were asked to consider. The Sixth Committee of the Seventh Assembly perfected the document.

The slavery convention [4] signed at Geneva September 25, 1926, entered into force March 9, 1927. It completes the general act of the Brussels conference of 1889–90. Contracting states undertake to adopt necessary legislative measures to implement the convention and to communicate to each other and to the Secretary-General of the League [5] laws and regulations on the subject.

[1] A special *Rapport provisoire . . . (année 1925)* gives the French account. The commission's session is reported in its *Minutes of the Eighth (Extraordinary) Session* (C. 174, M. 65, 1926, VI A. 5); the Council discussion in *Official Journal*, VII, p. 623.

[2] *Official Journal*, V, p. 909.

[3] See *ibid.*, VII, p. 1030, 1140, 1547; VIII, p. 121.

[4] *Treaty Series*, LX, p. 253.

[5] Annual reports are brought to the attention of the Assembly.

9. Protection of Minorities

At the Paris Peace Conference a number of special treaties relating to the protection of racial, linguistic or religious minorities were concluded with the new states and with the states whose territory had been considerably increased as a result of the war. Clauses corresponding to those contained in these treaties were inserted in several treaties of peace.

On December 15, 1920, the first Assembly requested that, if Albania, the Baltic and Caucasian states were admitted to the League, they should take the necessary measures to enforce the principles of the minorities treaties.[1] The Council on October 2, 1921, passed a report containing the text of the treaty articles and which was intended to serve as a form binding the states concerned.[2] A declaration embodying this report as an engagement of the state toward the League of Nations has been made by each following its admission to the League. In addition, the same provisions have been incorporated in other treaties.

All of these have been collected in a volume published by the Secretariat.[3]

As a result of these various forms of obligation the following states are effectively under the minority régime:

Albania
Austria
Bulgaria
Czechoslovakia
Danzig, Free City
Estonia
Finland
Greece
Hungary
Latvia
Lithuania (and Memel)
Poland
Rumania
Serb-Croat-Slovene State
Turkey

[1] *Resolutions of the Assembly . . . 1920*, p. 28.

[2] *Official Journal*, II, p. 1161.

[3] *Protection of Linguistic, Racial and Religious Minorities by the League of Nations. Provisions contained in the various international Instruments at Present in Force* (C. L. 110, 1927, I. B. 2).

In addition bilateral treaties embodying the principles have been made between Austria and Czechoslovakia, Bulgaria and Greece, Germany and Poland.

Treaty Provisions

The minorities provisions are recognized by the states affected as fundamental laws and they agree to enact no conflicting stipulations. The essential provisions are:

Full and complete protection of life and liberty will be insured to all inhabitants . . . without distinction of birth, nationality, language, race or religion.

All inhabitants . . . will be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals. They will have the right to change their religion.

All persons . . . not born nationals of another state shall *ipso facto* be . . . nationals. All . . . nationals shall be equal before the law, shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession will not prejudice any . . . national in matters relating to the enjoyment of civil or political rights.

No restriction will be imposed on the free use by any . . . national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment of an official language, adequate facilities will be given . . . nationals of [other] speech for the use of their language either orally or in writing before the courts.

Nationals who belong to racial, religious or linguistic minorities will enjoy the same treatment and security in law and in fact as other . . . nationals.

Provision will be made in the public educational system . . . for adequate facilities for insuring that in the primary schools instruction shall be given to the children of such nationals through the medium of their own language; it being understood that the teaching of the official language [may be] made obligatory in the said schools.

Minorities will be assured an equitable share in the enjoyment and application of public funds for educational, religious or charitable purposes.

The stipulations affecting persons belonging to racial, religious or linguistic minorities are declared to constitute obligations of international concern and are placed under the guaranty of the League. They shall not be modified without the assent of a majority of the Council. Any Member of the Council has "the right to bring to the attention of the Council any infraction or danger of infraction of any of these stipulations, and the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstance."

Petitions

Procedure. The Council on October 27, 1920, passed a resolution and report defining the nature of the guaranties undertaken by the League.[1] A resolution of June 27, 1921, by the Council laid down a series of rules regarding petitions in respect to minority questions.[2] Questions of the method of handling petitions by the Council having been raised, a resolution defining procedure respecting them was adopted on September 5, 1923.[3] A judicial report on who has the right to petition was noted by the Council on November 14, 1928.[4]

According to this procedure, the minorities themselves and states are entitled to draw the attention of the League of Nations to any infraction or danger of infraction of the treaty provisions. But this act must retain the nature of a petition or report pure and simple and can not have the legal effect of putting the matter before the Council.

(*a*) must have in view the protection of minorities in accordance with the treaties;

(*b*) in particular must not be submitted in the form of a request for the severance of political relations between the minority in question and the state of which it forms a part;

[1] *Minutes of 10th Session of the Council*, p. 143–151; *Official Journal*, I, No. 8, p. 8.

[2] *Official Journal*, II, p. 749.

[3] *Ibid.*, IV, p. 1293.

[4] *Ibid.*, IX, p. 1493.

(*c*) must not emanate from an anonymous or unauthenticated source;
(*d*) must abstain from violent language;
(*e*) must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

In case the state concerned should object to a petition being received, the Secretary-General will submit the question to the president of the Council, who may invite two other members of the Council to assist him in the study of this question. At the request of the state concerned this question of procedure may be put on the agenda of the Council.

A Government is granted two months in which to prepare a reply to a petition. Any Member of the League can see petitions (with the observations of the Government concerned) which have been communicated to the Council.

The 1923 resolution defines the functions of the so-called "Committee of Three" set up by the resolution of October 25, 1920. Examination by it of petitions and remarks on them by the Governments concerned shall be for the sole purpose of determining whether one or more members of the Council should bring them to the attention of the Council.[1] The right of any member of the Council to bring to the attention of that body any infraction or danger of infraction is preserved intact.

A report of the Council on June 9, 1928, laid down important definitions of the difference between an international dispute and a minority appeal:[2]

We are unanimous in considering that the system of the protection of minorities instituted by the treaties, while having as its principal object the protection of the minority itself, is also intended not only to prevent that questions concerning the protection of minorities should acquire the character of a dispute between nations but to insure that states with a minority within their borders should be protected from the danger of interference by other powers in their internal affairs.

[1] For additional resolution of June 10, 1925, see *Official Journal*, VI, p. 878.
[2] *Official Journal*, IX, p. 942.

. . . Once the matter is before the Council, it becomes an affair between the Council and the state to which the minority belongs nationally, not a question between that state and the state with which the minority is racially connected.

Disputes arising under Guaranties

Minority questions which have come before the Council have varied greatly as to character. The fact that they have not been very numerous and have emanated from only some of the areas inhabited by minorities indicates that the system has been relatively effective. Among the questions coming before the Council have been:

Hungarian Farmers in Rumania. On June 11, 1925, the Council began consideration of a petition from small landholders of Hungarian origin in the Banat and Transylvania who complained that under Rumanian laws they might be deprived of their realty without adequate compensation and that measures taken against them were more radical than those taken against other Rumanian nationals.[1] Rumania suspended all measures which might tend to affect the situation, pending the decision of the Council. The Rumanian case was that the farmers in the districts under discussion were to be subject to expropriation of their land above a maximum amount, as a part of a general agrarian reform which had been decided upon prior to the World War. The number of farmers affected was about 2,300. After extensive presentation of documents and discussion of details of the question, the Rumanian Government proposed to offer the farmers compensation to the amount of 700,000 francs or $140,000. The Council accepted this proposal because it seemed better calculated to meet the interests of the farmers and to pacify the inhabitants than a legal decision dealing with the validity of the agrarian law.[2] The beneficiaries declined to participate in allocating this

[1] *Official Journal*, VI, p. 891–1000.
[2] *Ibid.*, p. 1341–1352, 1456.

sum, and the Rumanian Government established committees for that purpose.[1]

Polish Minority in Lithuania. Complaints from this minority led to a report to the Council on June 10, 1925, that the information supplied by the Lithuanian Government to the Council gave "evidence of that Government's desire to cooperate with the League of Nations in removing any doubts which might exist as to the way in which the Lithuanian people fulfills its obligations towards those of its fellow citizens which belong to a minority."[2] Subsequently, the Lithuanian Government made an extensive statement in which it detailed the measures taken to insure fair treatment of the Polish minority.[3]

Jewish Minority in Hungary. A question of the Hungarian *numerus clausus* law of 1920 came before the Council in September, 1922.[4] The law laid down that the number of students of different races and nationalities entered on the rolls of universities and other institutions for higher education should be proportional to the number of inhabitants of such races and nationalities in the country. Statistics and evidence were presented to the Council by the Hungarian Government and the petitioners. While the primary question was whether the *numerus clausus* was compatible with the principle of equal treatment in the minority treaty, the Hungarian Government considered the law as an exceptional measure necessitated by an abnormal social situation, and stated that it would be changed as soon as conditions altered. In view of this assurance, the Council on December 12, 1925,[5] decided not to enter into the legal question, but to await the amendment of the law in the near future.

Upper Silesia. A number of petitions have emanated from Upper Silesia. One of these, dated May 26, 1925,

[1] *Official Journal*, VII, p. 1084.

[2] *Ibid.*, VI, p. 864, 276 at 865; compare p. 484, 581–606.

[3] *Ibid.*, p. 139, 1452.

[4] *Ibid.*, III, p. 1204, 1425.

[5] *Ibid.*, VII, p. 148–153, 171.

complained that German laws with regard to payment by the German Government of compensation in Upper Silesia led to the systematic rejection of claims put forward by Poles for damages incurred at the time of the partition. Changes of membership in the Council of the League necessitated consideration of the question by different rapporteurs,[1] but the actual administration of the laws seemed to have left the petitioners without reason to reopen the question.

By petition of January 30, 1928, the Deutscher Volksbund raised the question of the right to establish an elementary minority school. A previous question involving the same problem[2] had been before the Council. The Permanent Court of International Justice laid down the principle respecting the rights of minorities with respect to schools, especially the authority of officials to determine whether an individual belonged to a minority, that a parent could decide the language of a child according to his conscience and on his personal responsibility; that the Polish Government was justified in not admitting children, whose only language was Polish, to minority schools; and that the declaration of a person responsible for the education of a child concerning his language was not to be the subject of any verification or dispute, pressure or hindrance on the part of the authorities. With this decision[3] before it, the Council passed a report on June 9, 1928, covering a series of differences and also was able to adopt a report upon a number of other questions relating to schools in Upper Silesia.[4]

Albanian Property and the Albanian Minority in Greece

On April 10, 1928, the Albanian Government requested the Council, in virtue of Art. 11, par. 2, of the Covenant,

[1] *Official Journal*, VII, p. 1418.

[2] *Ibid.*, VIII, p. 400, 491, 592.

[3] Publications of the Permanent Court of International Justice, Series A, No. 15.

[4] *Official Journal*, IX, p. 945, 946.

to examine the question of Albanian property and of the Albanian minority in Greece.

On June 5 the Council [1] heard statements of the parties. The Albanian representative stated that the application of the agrarian law in Greece had led to the confiscation, more or less disguised, of Albanian properties, despite the fact that in virtue of its international obligations the Greek Government was not entitled to proceed to expropriation and requisition of foreign property without apparent reason and without a just preliminary indemnity. The Greek representative said that his Government was convinced that the Albanian request could not be received. Negotiations were being conducted on the questions which Albania had submitted to the Council in virtue of an unfair application of Art. 11 of the Covenant. The expropriation of Albanian lands had taken place under an agrarian law which the influx of refugees had rendered necessary and affected all landed proprietors without distinction.

The Council on June 9 adopted a report in which it found that the minorities complaint should not come up under Art. 11, for such an appeal "would create the very dangers which the minorities treaties were intended to avert." Some of the complaints were already being examined under the normal minority procedure. The two Governments agreed to negotiate directly on the question of Albanian property in Greece.

Moslems of Albanian Origin in Greece

The question of Moslems of Albanian origin in Greece, particularly the situation of the Albanians of Chamuria, was examined by the Council on March 16, 1926. The Greek Government informed the Council that it considered the exchange as practically terminated in Chamuria, and that it had decided not to demand the exchange of 800 inhabitants of certain villages specially mentioned in the debates. The persons who remained would enjoy the same

[1] *Official Journal*, IX, p. 871, 874, 942.

treatment *de jure* and *de facto* as other Greek citizens. Any exceptional measures which the Government might have applied would be abrogated.[1]

Emigration Commissions

On November 27, 1919, a convention [2] was concluded between Greece and Bulgaria to regulate the reciprocal and voluntary emigration of minorities between Greece and Bulgaria, so that Greeks domiciled in Bulgaria may emigrate to Greece, and Bulgarians domiciled in Greece may emigrate to Bulgaria. This convention provides for the formation of a Mixed Commission of four members, two appointed by the Council of the League. The duties of this commission are, generally speaking, to supervise this emigration.[3]

On January 30, 1923, a convention was signed at Lausanne concerning the obligatory exchange of Turkish nationals of Greek Orthodox religion on Turkish territory and of Greek nationals of Mussulman religion on Greek territory, with the exception of Greek inhabitants of Constantinople and Mussulman inhabitants of Western Thrace. According to the terms of this convention, a mixed commission has been appointed composed of four Turkish members, four Greek members and three members chosen by the Council.[4] This commission had similar functions to that of the Greco-Bulgarian Mixed Commission. The final report was submitted on July 14, 1926.[5]

The resolution of the Council covering the Albanian declaration of October 2, 1921, provides for similar arrangements with countries bordering on Albania for reciprocal and voluntary migration of persons belonging to ethnic minorities, and contemplates adhesion by Albania to the Greco-Bulgarian convention.[6]

[1] *Official Journal*, VII, p. 153, 308, 510. For the earlier phase of this dispute under Art. 11, par. 2, of the Covenant, see *Official Journal*, V, p. 364, 1367; VI, p. 234.

[2] *Treaty Series*, I, p. 67.

[3] *Official Journal*, I, No. 8, p. 84.

[4] *Ibid.*, IV, p. 1312.

[5] *Ibid.*, VII, p. 1137; *cf.* also p. 160.

[6] *Ibid.*, II, p. 1162.

10. Administration of Territory

The Saar Basin

By the treaty of peace with Germany the Saar Basin is transferred under various conditions to the control of France "as compensation for the destruction of the coal mines in the north of France and for part payment toward the total reparation due from Germany from the damage resulting from the war." The coal mines in the basin are ceded "to France with full and absolute possession." The government of the basin territory and provisions for a plebiscite in 1935 are set forth. By Art. 49 of the treaty Germany renounces in favor of the League of Nations, in the capacity of trustee, the government of the territory. It is also provided that "the decisions of the Council of the League of Nations will be taken by a majority" in all matters respecting it. The Saar Basin, with the exception of the mines, will therefore have a League of Nations government until January 10, 1935.

By pars. 23 and 26 of the Annex to the Saar section of the treaty of Versailles the laws and regulations in force shall not be changed and taxes and dues shall not be imposed "without previously consulting the elected representatives of the inhabitants." A decree of March 24, 1922,[1] of the Governing Commission established an Advisory Council and a Technical Committee. The Technical Committee consists of eight members versed in economics, administrative and financial matters appointed for one year by the Governing Commission and consulted by it at will. The Advisory Council consists of 30 members elected by the citizens for three years, and it meets every three months. The members elected in 1928 serve until March 31, 1931.[2]

The League is responsible for the plebiscite to be held in 1935. The treaty of Versailles provides that the voters

[1] *Official Journal*, III, p. 414.
[2] *Ibid.*, IX, p. 761.

should be "all persons without distinction of sex more than 20 years old at the date of the voting" who were resident in the Saar on June 28, 1919. The object was to prevent the frequent dispute in plebiscites as to who are *qualified* voters. The voting lists were prepared in September, 1922, by a provisional records commissioner appointed by the Council of the League,[1] and as a consequence, the vital records necessary for determining the voting lists are now in the custody of the League.

By the treaty, the Governing Commission always includes a French member. M. V. Rault, the French member, served as chairman until April 1, 1926, having been criticized for acting more like a French than an international official. He was succeeded by a Canadian, George W. Stephens, and he by an Englishman.

The Governing Commission acts as the cabinet of the Saar Basin, which has a population of nearly 800,000.

France has special rights connected with working the mines, which are owned by that country. Since the Basin is exclusively a mining district, there is an underlying problem of exercising justice toward both the mining régime and the population. In the early days, France insured order by its own troops, of which there were 7,977 on February 1, 1920.

Members of the Governing Commission and the Council for some time pressed for the reduction of this force, which was to be replaced by a local gendarmerie. A report on the defense of the Saar was eventually made by the commission on January 28, 1926,[2] and revised a year later.[3] The solution of the problem was complicated by the fact that the commission is obligated by the treaty to insure the working of the mines. Obviously, it could not fulfill this assigned duty if the gendarmerie and the miners were both agreed on preventing it. France was insistent that some provision must be made for uninterrupted communication.

[1] *Official Journal*, III, p. 1204–1213.
[2] *Ibid.*, VII, p. 527.
[3] *Ibid.*, VIII, p. 599.

The decision came before the Council in March, 1927, with Germany, to which the Saar belonged, as a Member of the Council and seriously interested in the decision. This difference between France and Germany attracted much attention in the press, and the session of March 12, 1927, was one of the high-lights of the Council's history. The decision was to establish a Railway Defense Force of 800 men, to be provided from the French, British and Belgian forces in the adjacent occupied zones of Germany on the left bank of the Rhine. Thus, the French "Saar garrison" was eliminated, all foreign troops were normally removed from the Saar, and in case of need the French contribution to the railway defense force was limited.

German Goods for Local Consumption. For several years the uncertain commercial relations between France and Germany created a difficult position in the Saar, resulting in temporary agreements. The Franco-German commercial treaty of August 17, 1927, offered the opportunity to transform them into a permanent understanding. As the customs frontier between France and the Saar is removed and one set up toward Germany, the negotiation was both difficult and complicated. An arrangement of February 23, 1928, put the commercial relations of the Saar on the soundest basis they had yet attained.

Free City of Danzig

Par. 1 of Art. 100 of the treaty of peace of Versailles provides that Germany shall renounce in favor of the Principal Allied and Associated Powers all rights and titles over the City and Territory of Danzig. Art. 102 provides that they shall establish Danzig and its territory as a Free City to be placed under the protection of the League of Nations. Art. 103 provides that a constitution for the Free City shall be drawn up by duly appointed representatives of the Free City in agreement with a high commissioner [1] to be appointed by the League, and placed under

[1] The high commissioners have been Mervyn Sorley Macdonnell (English), Joost A. Van Hamel (Dutch), and Count Manfredi Gravina (Italian), for three years from June 22, 1929.

the guaranty of the League. The constitution was approved by the high commissioner on May 11, 1922.[1]

The high commissioner is further intrusted with the duty of dealing in the first instance with all differences arising between Poland and the Free City concerning the treaty of Versailles and any supplementary arrangements or agreements.

Art. 104 provides that a treaty, the terms of which are to be negotiated by the Principal Allied and Associated Powers, shall be concluded between the Polish Government and the Free City in order to assure to Poland the exercise of the rights which she derives from this article within the territory of the Free City. This treaty of November 9, 1920,[2] came into force at the same time as the establishment of the Free City, November 15, 1920.

The guaranty of the Constitution was assumed by the Council on November 17, 1920,[3] when the Free City was placed under the protection of the League, its defense falling to Poland. The Polish-Danzig convention of November 9, 1920, was not to be modified without the previous assent of the League.

As to foreign relations the commissioner decided on December 17, 1921:[4]

1. That Poland, when called upon by Danzig to conduct any of the foreign relations of the Free City, has the right to refuse the application, if the matter involved is clearly to the detriment of the important interests of the Polish state.

2. That Poland has no right to initiate and impose upon Danzig a definite foreign policy which is clearly opposed to the well-being, prosperity and good government of the Free City. Moreover, it is apparent from the Polish statement of the case that she has no desire to do so.

Disarmament. In accordance with the Council's resolution of November 17, 1920, the following was inserted in the Constitution:

[1] Text in *Official Journal*, Spec. Sup. No. 7.

[2] *Treaty Series*, VI, p. 189.

[3] *Minutes of the 11th Session*, p. 76.

[4] *Decisions of the High Commissioner*, 1921, p. 72.

Article 5. — The Free City of Danzig can not, without the previous consent of League of Nations, in each case:

(1) Serve as a military or naval base;

(2) Erect fortifications;

(3) Authorize the manufacture of munitions or war material on its territory.

Under these provisions various questions have arisen. The former German Government rifle factory in Danzig had been managed by Danzig for the Principal Allied and Associated Powers, the temporary owners. In December, 1920, Danzig requested permission to manufacture 50,000 rifles for Peru. The Council decided that the League could not undertake the responsibility for increasing the stock of arms in the world. The Council later decided that all manufacture of arms, including sporting rifles, must cease immediately, and that the rifle factory must be closed down on July 30, 1921.[1]

The Council[2] decided in March, 1924, that the Westerplatte Peninsula in the territory of the Free City should be placed at the disposal of the Polish Government for the purpose of unloading, storing and forwarding to Poland war material and explosives in transit. After the completion of the works, the Governments of Danzig and Poland began negotiations under the chairmanship of the High Commissioner, Joost van Hamel, on technical points, such as the right of admittance of Danzig authorities to the Westerplatte area, the control and supervision of the observance of the safety regulations in this area, the manner of regulating customs clearance, regulations applicable to consignments of war material and explosives leaving the Westerplatte area, the definition of "war material" which may be transported. The negotiations having failed, the High Commissioner, in April, 1927, issued regulations to which both the Danzig and Polish Governments raised objections. He then asked the Council in a letter dated May 30, 1927, to give a final decision on the subject.

[1] *Official Journal*, II, p. 676, 968.

[2] *Ibid.*, V, p. 529, 536, 687.

The Council[1] on December 12, 1927, again remitted the question to direct negotiation and they settled it by an agreement signed August 4, 1928.

A request from the high commissioner for instructions as to applications for permission to convey through Danzig war material consigned to a country other than Poland was referred by the Council to the Permanent Advisory Commission on Military, Naval and Air Questions on March 7, 1928. A decision of the Council dated June 23, 1921,[2] prohibited the storage and transport in Danzig of war material unless the consent of the Council had been obtained. The Council authorized the high commissioner to deal, on its behalf, with such requests with a view to obtaining the Council's consent to such operations, and directed that it be informed of the results of the applications.[3]

Relations with Poland. The relations between Poland and the Free City have improved with time and they have been able to work out an understanding directly between themselves on most unsettled points. The Polish-Danzig agreement of October 24, 1921, contains 244 articles on many different questions, including naturalization in Danzig, extradition, postal arrangements, regulations for ships, stock exchange transactions, customs, fisheries, export and import trade and food supply for Danzig. Many other special treaties have been made.

Such differences, however, as could not be arranged directly between the two parties have been, in accordance with the treaties, referred to the high commissioner of the League. His decisions[4] were numerous in the early years. Either or both parties could appeal to the Council and this was done regularly, even though, as a rule, the appeals were withdrawn. The persistence of the parties finally led the high commissioner to say at Geneva on De-

[1] *Official Journal*, VIII, p. 801, 1423; IX, p. 181.

[2] *Ibid.*, II, p. 659.

[3] *Ibid.*, VIII, p. 748.

[4] Obtainable from World Peace Foundation for years 1921–27.

cember 12, 1924, that "for the first time the Council had had nine clear months free of Danzig questions. . . . Appeals were made to the Council on every question by one side or the other, not only on their merits, but as a matter of tactics. . . . It was obvious from the remarks and feelings of the Council that these methods must be stopped." [1]

He asked to submit proposals to reduce the number of appeals, being supported by both the Polish and Danzig representatives. A report was made to the March, 1925, session of the Council [2] and a detailed procedure for the future was adopted in June, 1925. The new procedure maintains the system of direct negotiations between Poland and Danzig, while the high commissioner may invite one or both to meet to discuss the issue. In the case of technical or legal questions — the majority of those brought up — the high commissioner is empowered to take the advice of the League's technical organizations or experts before giving his decision. Formerly they were consulted only after an appeal from a decision had reached the Council. The result was to eliminate the political element in disputes.

Questions before Council. The Danzig questions brought to the Council have been exceedingly numerous, particularly in the first few years. Most of them involved minor matters and were more notable for expression of differences between the parties than their subjects.

One which developed quite a history may be cited. The Polish Government appealed to the Council against a decision of the High Commissioner with regard to the Polish postal, telegraph and telephone service at Danzig, and particularly concerning the installment of postboxes and the employment of Polish postmen in the Free City. On March 13, 1925,[3] the Council requested an Advisory Opinion from the Permanent Court of International Jus-

[1] *Official Journal*, VI, p. 153.
[2] *Ibid.*, p. 562.
[3] *Ibid.*, p. 471.

tice on the question. On May 16, the Court rendered an opinion [1] to the effect that no decision of the High Commissioner covering the controversy was in force and that the Polish postal service at Danzig was not restricted to operations only within its premises, but that it could set up letterboxes for the public and collect and deliver postal matter outside those premises. Four experts, appointed by the Chairman of the Advisory Committee on Communications and Transit made a report on the practical means of carrying out the Advisory Opinion, which was adopted by the Council. This involved laying down boundaries of the port, which are subject to revision every five years. On the basis of the report, Poland and Danzig entered into negotiations and reached agreements upon the question at issue and many other subsidiary questions, such as currency, language and taxation in the Heveliusplatz, which is a Polish section of the port.[2]

The Council appoints various Danzig officials, such as the President of the Danzig Port and Waterways Board.

In recent years, Danzig and Poland have executed a great number of treaties defining their relations. Among those of special interest may be mentioned that of August 4, 1928, defining access to and anchorage in the Port of Danzig for Polish war vessels.

11. Progressive Codification of International Law

The Committee of Jurists appointed by the Council in 1920 to draft a statute for the Permanent Court of International Justice also reported a resolution of its own dealing with the codification of international law. This was referred to the First Assembly, but was not adopted by it. In the Fifth Assembly, the Swedish delegation called attention to the annual report showing the position of international engagements made under the auspices of the League and emphasized its contribution to the develop-

[1] See Publications of the Permanent Court of International Justice, Series B. No. 11.

[2] *Official Journal*, VI, p. 1371.

ment of international treaty law.[1] It was the League's duty, it was said, to organize this process of development systematically.

The Assembly on September 22, 1924, adopted a resolution requesting the Council to convene a suitable committee of experts to prepare a provisional list of the subjects of international law which were desirable to regulate by international agreement and to report which questions were sufficiently ripe to warrant calling an international conference for their solution. The Council appointed the Committee of Experts for the Progressive Codification of International Law, December 12, 1924.[2]

The committee has held annual sessions since 1925. At its first session it decided to give the word "codification" a broad significance and adopted an empirical procedure without entering into the problem of abstract codification. Its process of work is fixed. Questions are suggested to it on its own initiative or that of others. These are assigned to members of the committee sitting as subcommittees for examination and report, usually taking the form of a draft convention preceded by a technical introduction. If a question is found suitable, a questionnaire is prepared and forwarded to states. Their replies are studied by the committee, which then reports to the Council whether a given subject is ripe for international regulation. The Council passes such questions to the Assembly, which determines upon the convening of a conference to reach agreement upon them.

Three questions were advanced to that stage in 1927. In order still further to prepare the field, the Assembly called for the appointment of a Technical Preparatory Committee for the Codification Conference, which analyzes each question and determines in detail the information which is to be requested of the States Members and non-Members of the League. This information is to contain precise statements regarding:

[1] *Records of the Fifth Assembly, Plenary Meetings*, p. 82–83.

[2] *Official Journal*, VI, p. 275.

The status of the positive law of each state, internal and international, with as full details as possible on bibliography and jurisprudence;

Information derived from their practice at home and abroad; any views as regards possible additions to the rules in force and how to make good existing deficiencies in the international law of the subject.

It is planned to hold the first Codification Conference at The Hague. It will be held in 1929, unless the Disarmament Conference meets in that year; in which case it will be held in 1930. In preparation for it Governments sent replies by October 31, 1928, to specific points on the agenda as follows:

1. *Nationality:* the general principle of international law that the acquisition and loss of nationality fall solely within the domestic jurisdiction of each State; double nationality; effects of the naturalization of parents on the nationality of minors; nationality of children of unknown parents; cases of double nationality or loss of nationality by a woman as the result of marriage with a foreigner; effects of adoption on the nationality of the adopted child, etc.

2. *Territorial waters:* the nature of the rights possessed by a state over its territorial waters; the extent of such rights; the position as regards territorial waters around islands; straits; demarkation between inland waters and territorial waters; limitation upon the exercise of the sovereignty of coastal states as regards jurisdiction and fiscal questions, foreign warships in territorial waters.

3. *Responsibility of States for damages caused on their territory to the person or property of foreigners:* the legal basis of the international responsibility of states as resulting from acts of a legislative, judicial or executive organ; acts of individuals or mobs in riots or insurrections; pecuniary reparation or other compensation for damages, etc.

Altogether 21 subjects, including the three advanced to the conference stage, have been submitted to the Committee of Experts. Their status follows:

Ripe for Regulation. Legal position and functions of consuls; reserved by Ninth Assembly to a subsequent conference.

Competence of courts in regard to foreign states; reserved by Ninth Assembly to a subsequent conference.

Procedure of international conference and procedure for the conclusion and drafting of treaties; reserved by the Council, not passed to the Eighth Assembly for reference to a conference.

Suppression of piracy; reserved by the Council, not passed to the Eighth Assembly for reference to a conference.

Diplomatic privileges and immunities; reserved by the Council, not passed to the Eighth Assembly for reference to a conference.

Exploitation of the products of the sea; remitted by the Council to the Economic and other League Committees for special examination.

Not Ripe for Regulation. Classification of diplomatic agents.

Communication of judicial and extrajudicial acts (letters rogatory in penal matters).

Application of the notion of prescription in international law.

Legal status of private international non-profit-making associations.

Other Questions. Extradition; the Committee of Experts accepted a report on this subject that it was not ripe for regulation.[1] However, the Mixed Committee for the Suppression of the Offense of Counterfeiting Currency referred the extradition feature of that problem to the committee, which found serious reasons in favor of its international regulation in that connection.

Criminal competence of states in respect to offenses committed outside their territory; a subcommittee report found that the international regulation of the question "would encounter grave political and other obstacles."[2]

Legal status of government ships employed in commerce; consideration of it "might appear superfluous since it is already under study by the International Maritime Conference."[3]

The nationality of commercial corporations and their diplomatic protection; a subcommittee report concludes that regulation "is at the present moment desirable and realizable."[4]

Recognition of the legal personality of foreign commercial corpo-

[1] League of Nations, C. 51. M. 28. 1926. V. 8.

[2] *Ibid.*, C. 50. M. 27. 1926. V. 7.

[3] *Ibid.*, C. 52. M. 29. 1926. V. 9.

[4] *Ibid.*, C. 207. M. 81. 1927. V. 12.

rations; already placed on the agenda of the conferences on international private law.[1]

Domicile; the questionnaire of the Committee of Experts was submitted to governments in June, 1928.[2]

Most-favored-nation clause; the Committee of Experts decided that regulation of this question "would encounter serious obstacles."[3] However, the World Economic Conference dealt with it in its final report and the Economic Committee is working upon a formula of international application.

Is it possible to establish, by means of a convention, international rules concerning the competence of courts with respect to foreign states and especially with respect to states engaging in operations of commerce?

Is it possible to establish, by means of a convention, international regulations on the conflict of law, relative to the contract of sale of merchandise?

The Committee of Experts is undertaking no new studies until it has received further instructions from the Council. In the 1927 Assembly the Paraguayan delegation submitted a proposal for the preparation of a general and comprehensive plan for the codification of international law. The Committee of Experts in June, 1928, decided to continue the method already adopted. The Ninth Assembly, in passing resolutions on the matter of codification, recommended "that the Committee of Experts should, when it next meets, examine whether it would be possible and desirable to endeavor, by the procedure of codification, to formulate a declaration of the fundamental rights and duties of states."

In addition, the Ninth Assembly in a resolution confirmed its decisions to make no change in the method of codification adopted in 1924, but recognized "that there would be advantages in indicating the full extent of the subjects which the Assembly proposes to cover by the work of codification." It, therefore, requested the Council to intrust to a committee of three jurists the task of es-

[1] League of Nations, C. 206. M. 80. 1927. V. 11.

[2] *Ibid.*, C. 343. M. 101. 1928. V. 3.

[3] *Ibid.*, C. 205. M. 79. 1927. V. 10.

tablishing a systematic survey to be communicated to Members of the League as soon as possible. It would be desirable to distinguish subjects which should be reserved (1) for the technical organizations of the League, (2) for international conferences already initiated by particular Governments and (3) those which appear capable of being dealt with by conferences of jurists.

The Assembly emphasized the important practical value in this connection of assembling in the form of a code, according to a methodical classification, the various general international conventions opened to acceptance by states in general. It, therefore, asked the Council to refer to the committee of jurists the question of publishing, "as an accompaniment of the *Treaty Series* and in the form of a code of which new editions would be from time to time prepared, those general conventions which have the above-mentioned character."

Unification of Private Law

The *International Institute for the Unification of Private Law* was inaugurated in Rome on May 30, 1928. This institute originated in a proposal of the Italian delegation to the Assembly of 1924. The Italian Government offered to found in Rome such an institute and to grant for its upkeep an annual sum of 1,000,000 lire ($52,631). This offer was accepted by the Assembly and subsequently by the Council;[1] which, after consulting the Committee of Experts for the Progressive Codification of International Law, the Committee on Intellectual Cooperation and the League technical organizations, concluded with the Italian Government the necessary agreements for the organization, existence and normal working of the Institute. The general principles of these agreements are similar to those governing the creation of the Institute of Intellectual Cooperation in Paris. The engagements entered into by the Italian Government toward the Council of the League[2]

[1] *Official Journal*, V, p. 1376.
[2] *Ibid.*, VII, p. 812.

were ratified by royal decree of September 3, 1926. As premises for the institute the Italian Government decided to offer the Villa Aldobrandini. The Institute is under the direction of a Governing Body composed of an Italian president and 14 members of different nationalities. On March 12, 1927, the Council appointed Vittorio Scialoja as president of the Governing Body.

"The object of the Institute is to study methods for the assimilation and coordination of private law as between states or groups of states, and to prepare for a gradual adoption by the various states of uniform private law legislation" (Art. 2 of Statutes).

Pietro de Francisci, professor of the history of Roman law at the University of Rome, was appointed secretary-general of the institute at the first meeting of the Governing Body.

IV. ACHIEVEMENT OF PEACE AND SECURITY

1. Reduction of Armament

"The Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

"The Council, taking account of the geographical situation and circumstances of each state, shall formulate plans for such reduction for the consideration and action of the several Governments.

"Such plans shall be subject to reconsideration and revision at least every 10 years.

"After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council" (*Covenant*, Art. 8).

Effort to make the prescribed agreement upon the reduction and limitation of armament has been continuous since 1920, but through 1928 had led to no general result. The point of view of the Members of the League had, however, undergone several important changes. They felt that the new approach to the problem had offered improved prospects of success in the near future.

In 1920 when the League began to function, states felt that the maintenance of armament was one of the most sacred functions of their independence. In the First Assembly they insisted, however, that the problem of reduction should be intrusted to the Temporary Mixed Commission so as to take it out of the hands of strictly military experts. In 1921, the Assembly urged this commission to make proposals in the form of a draft treaty.[1] The commission found that a feeling of insecurity was the chief

[1] *Resolutions and Recommendations of the Assembly . . .* 1921, p. 23.

bar to reduction of armament. The Assembly in 1922 emphasized this thought in extensive resolutions, one of which — known as Resolution XIV — added that "moral disarmament is an essential preliminary condition of material disarmament, and that this moral disarmament can only be achieved in an atmosphere of mutual confidence and security."[1]

In 1923, the Temporary Mixed Commission reported a draft treaty of mutual assistance to the Assembly, in which the third committee, as a conference, perfected the text for submission to Governments. Eighteen states approved it in principle,[2] but various criticisms were leveled against it, one of which was that it did not take into sufficient account existing machinery for the pacific settlement of international disputes.

Premiers Edouard Herriot of France and J. Ramsay MacDonald of Great Britain attended the opening sessions of the Assembly in 1924 as heads of their delegations. They were fresh from the London Conference on Reparations, at which the Experts' (Dawes) Plan was brought into force and smooth working order by provisions for the establishment of 19 separate arbitral jurisdictions.[3] As a result of their Assembly speeches, a resolution requested the First and Third Committees to examine the obligations of the Covenant "in relation to the guaranties of security which a resort to arbitration and a reduction of armaments may require." The result was the well-known Geneva Protocol for the Pacific Settlement of International Disputes, opened for signature October 2, 1924. This agreement was built on the basic conception that "there can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security."[4] Its first aim was to supply a system of pacific

[1] *Resolutions and Recommendations of the Assembly . . .* 1922, p. 27.

[2] *Records of the Fifth Assembly, Minutes of the Committees, Minutes of the Third Committee*, p. 129.

[3] World Peace Foundation Pamphlets, Vol. VIII, p. 314.

[4] *Records of the Fifth Assembly, Minutes of the Committees, Minutes of the Third Committee*, p. 212.

settlement, made complete by closing the legal "fissures in the Covenant," and secondly to provide for the general disarmament conference which, it was planned, could be held in 1925.

The British Government, under Premier Baldwin, held up the preparations for this conference, and its representative in the Council on March 12, 1925, declared himself against the principles of the protocol.[1] His essential declaration was that the real problem of confidence was not to be solved by a general agreement but by agreements on certain "extreme cases" of "brooding fears that keep huge armaments in being." The best way of dealing with these, he said, "is, with the cooperation of the League, to supplement the Covenant by making special arrangements in order to meet special needs."

In February, 1925, Germany made the proposal that led to the Locarno Conference. The Locarno treaty of guaranty neutralizes the Rhine frontier, the principal of the "extreme cases." The other treaties resulting from the Conference provide for a complete system of pacific settlement between the parties concerned. This system was made completely effective by the admission of Germany to the League and by the entrance of the treaties into force in September, 1926.[2] The Locarno principles then became a new starting point.

The early development of League policy respecting armament has, therefore, been based upon recognition of the fact that war occurs only as the result of disputes, for which there are but two methods of settlement: By armaments or peaceful means. Since 1926, the whole exploration of the subject has emphasized the pacific means of settling disputes in the belief that their development reduces the necessity for armament.

In this connection extensive re-examinations of the means of pacific settlement afforded by the Covenant itself have been made. A French proposal to the Preparatory

[1] *Official Journal*, VI, p. 124, 446.

[2] *Treaty Series*, LIV, p. 289–363.

Commission in 1926 requested investigation of methods which would "enable the Council to take such decisions as may be necessary to enforce the objects of the Covenant as expeditiously as possible." A committee of the Council drew up a report which was approved by the Assembly in 1926 and which lays down details of procedure under Art. 11 of the Covenant.[1]

The Committee on Arbitration and Security brought into the Ninth Assembly in 1928 elaborate reports on the operation of Arts. 10, 11 and 16 of the Covenant.[2]

Since 1926, pursuit of the solution of the armament problem has advanced along two main lines: (1) Preparation for a conference to reduce and limit armament in a technical sense, and (2) development of the system of pacific settlement with a view to solving the problem of security.

Committees at Work

Temporary Mixed Commission. The First Assembly in 1920 passed a resolution inviting the Council "to instruct a temporary commission composed of persons possessing the requisite competence in matters of a political, social and economic nature to prepare . . . reports and proposals for the reduction of armaments as provided for by Art. 8 of the Covenant." The Temporary Mixed Commission for the Reduction of Armaments, with the addition of seven civilian members in 1922, functioned until after the Fifth Assembly in 1924.

Coordination Commission. The Coordination Commission succeeded it and continues to exist. This consists of the active Committee of the Council[3] — the Council acting as a committee — and of what is separately called the Joint Commission to advise the Preparatory Commission on the economic aspect of questions. It consists of two members each of the Economic, Financial and Transit

[1] *Official Journal*, VIII, p. 221; compare *Official Journal*, Spec. Supp. No. 53, p. 23 and *Official Journal*, IX, p. 125.

[2] League of Nations, A. 20, 1928, IX, 9.

[3] *Official Journal*, V, p. 1380.

Organizations, two members of the Employers' Group and two members of the Workers' Group of the Governing Body of the International Labor Office, and four members competent to deal with questions connected with industry and transport.[1]

The Permanent Advisory Commission on Armaments is provided for in Art. 9 of the Covenant and was set up by the Council on May 9, 1920. It is made up of military, naval and air officers representing the Governments members of the Council. The commission is divided into three subcommissions, one expert in each branch of armament, and its primary duty is to advise the Council on technical matters. It sits as Subcommission A of the Preparatory Commission with additional members.[2]

The Preparatory Commission for the Disarmament Conference was established by the Council September 26, 1925, and is composed of:[3]

(*a*) Representatives of states members of the Council;

(*b*) Representatives of countries chosen among those which, by reason of their geographical situation, occupy a special position as regards the problem of disarmament and which are not otherwise represented on the commission;

(*c*) Any state not represented on the commission to submit memoranda and to be heard on them;

(*d*) States members of the Council since 1925, the Soviet Union, Turkey and the United States.

Preparation for Conference

The Preparatory Commission for the Disarmament Conference began work in May, 1926, on the basis of finding replies to a series of seven elaborate questions drawn up by the Council on December 12, 1925,[4] which summarized the study given to the subject in the previous six years.

[1] *Official Journal*, VII, p. 166, 534.

[2] *Ibid.*, p. 633, 535.

[3] *Ibid.*, p. 164, 1403.

[4] *Ibid.*, p. 168.

Several points were added in the commission and have given rise to subsidiary investigations.

By the end of 1926 the subcommissions had worked up replies [1] and in March, 1927, the commission itself was able to make from this most impressively complicated series of answers and counter suggestions a synoptic analysis for further negotiation.

One of the subjects resulting in a fundamental difference was that of the principle by which to limit naval cruiser tonnage. Some states wanted a total tonnage fixed without specifying vessel size; others wanted the size of vessels fixed and the total tonnage determined. The United States attempted to solve this difficulty by inviting certain states to a Conference for the Limitation of Naval Armaments at Geneva, June 20–August 4, 1927. Great Britain and Japan attended officially, but it came to no conclusion because the United States and Great Britain were unable to compromise their views on respective requirements.

When the Preparatory Commission met the third time in March, 1927, it studed preliminary drafts of a convention [2] and, with many questions still unsettled, passed a draft convention on first reading.[3] To its November, 1927, session the Soviet delegation presented a project for complete and immediate disarmament.[4] This was rejected at the session in March, 1928, after a lively debate,[5] but is to be submitted in revised form at the next session.

The draft convention passed at the March meeting had served to bring out the fundamental points of disagreement between various conceptions of national needs for armament. Each great state is confronted by physical cir-

[1] See Report of Subcommission A (C. 739. M. 278. 1926. IX. 16); Subcommission B. Report No. 1 [Report of the Joint Commission] (C. 738. M. 277. 1926. IX. 15); Committee of the Council (C. 740. M. 279. 1926. 1927. IX. 2) and summary, *Seventh Yearbook*, p. 244.

[2] *Documents of the Preparatory Commission* . . . Series IV, p. 358–382 (C. 310. M. 109. 1927. IX. 5).

[3] *Ibid.*, p. 383; *Official Journal*, VIII, p. 861; *Monthly Summary*, VII, p. 105.

[4] Separate document, C. 46. M. 23. 1928. IX. 5.

[5] *Documents of the Preparatory Commission* . . . Series VI, p. 239. (C, 165. M. 50. 1928, IX, 6.)

cumstances, peculiar to its situation, which affect its armament ideas. The small states in any case do not rely on armament. The points of disagreement, therefore, did not apply to all negotiators and a solution offered by those concerned with any point would probably prove acceptable to all others for the sake of making progress. It was that which prompted the American delegate in March, 1928, to ask:[1] "Have we or have we not by direct negotiation[2] or in any other way achieved a sufficient basis of agreement?" The answer was in the negative, so that the commission adjourned without putting the draft convention to a second reading.

Meantime the Briand-Kellogg pact for the renunciation of war was under negotiation and its signing on August 27, 1928, at Paris — along with the simultaneous work of the Commission on Arbitration and Security — was changing the political conditions in which the armament problem was envisaged. For the fourth time in the Ninth Assembly the pressure of the small states and Germany was exerted to hasten their desire for the reduction of armament to increase their own security. The Assembly urged the differing Governments to seek "agreed solutions" without delay so that the work could succeed. It further called on the president of the Preparatory Commission to "keep in contact with the Governments concerned so that he may be apprized of the progress of their negotiations" and could call the next session early in 1929.

Other Decisions

The Covenant provides for several reforms in regard to armament in addition to reduction. Action has been taken on these phases of the problem.

Interchange of Information. The Members of the League undertook in Art. 8 of the Covenant "to inter-

[1] *Documents of the Preparatory Commission* . . . Series VI, p. 278. (C. 165. M. 50. 1928 IX 6).

[2] The principal incident of direct negotiation was that between Great Britain and France resulting in what the newspapers called the Anglo-French accord on the cruiser problem and military service. The rejection of its naval terms by the United States left it without a chance of affording a solution to that phase of the problem.

change full and frank information as to the scale of their armaments, their military, naval and air programs, and the condition of such of their industries as are adaptable to warlike purposes." The Temporary Mixed Commission in 1922 and 1923 published much statistical information. In July, 1923, the Council, on the basis of the commission's investigations, authorized the Secretariat to begin publishing a yearbook embodying this information. The result of this authorization is the annual publication of the *Armaments Year-Book: General and Statistical Information.*

Trade in War Materials. An important phase of armament reduction is the proper control of international trade in war materials. Before the World War certain areas in Africa and Asia were subject to such control. The treaty of St. Germain of September 10, 1919, aimed to bring the previous arrangements up to date, but it was never brought into force [1] owing to the declination of the United States to proceed with ratification. The Temporary Mixed Commission devoted much time to the question and eventually in February, 1924, was able to meet with representative of the United States and to draw up a new draft convention. The resulting conference was held at Geneva, May 4–June 17, 1925, with 45 states represented.

The convention [2] for the supervision of the international trade in arms and ammunition and in implements of war, signed at Geneva, June 17, 1925, had not entered into force on December 31, 1928. The object of the convention is to establish a general system of supervision and publicity for the international trade in arms, munitions and implements of war, and a special system for areas where measures of this kind are generally recognized as particularly necessary.

[1] *Treaty Series*, VII, p. 331.

[2] For full texts see *Official Journal*, VI, p. 1117. The convention has been ratified by China, France and Venezuela and acceded to by Liberia, subject to ratification. The convention has been signed by: Abyssinia, Austria, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, Czechoslovakia, Denmark, Egypt, Estonia, Finland, Germany, Hungary, India, Italy, Japan, Latvia, Luxemburg, Netherlands, Norway, Poland, Rumania, Salvador, Serb-Croat-Slovene State, Siam, Spain, Sweden, Switzerland, the United States and Uruguay.

Chap. I defines five categories to which the convention applies — arms of exclusive war utility, arms of possible war utility, warships, aircraft, and other arms.

Chap. II lays down that Governments only shall have the right to export or import arms of exclusive war utility. Exceptions are contemplated in the case of manufacturers of war material and duly authorized rifle clubs or similar associations. Consignments for export of arms of war utility must be accompanied by a license or declaration of the importing Government and the regular publication of statistical returns must be made within two months of the close of each quarter. The trade in warships and aircraft is subject to publicity regulations only. The trade in other arms is free.

Chap. III defines the system to be applied to special zones. These comprise:

(*a*) A land zone consisting of the African Continent, with the exception of Egypt, Lybia, Tunisia, Algeria, the Spanish possessions in North Africa, Abyssinia and the Union of South Africa, together with the territory under its mandate, and of Southern Rhodesia. This zone includes the adjacent islands situated within 100 marine miles from the coast; it includes further the Arabian peninsula, Gwadar, Syria, Lebanon, Palestine, Transjordania and Iraq;

(*b*) A maritime zone, including the Red Sea, the Gulf of Aden, the Persian Gulf, and the Gulf of Oman.

To these zones the export of all arms save warships is forbidden unless the contracting party exercising sovereignty, jurisdiction, protection or tutelage over the territory is willing to admit the articles in question for lawful purposes.

Chap. IV contains three provisions of a special nature relating to Abyssinia, to the reservations which a certain number of countries bordering on Russia may wish to make owing to the non-adhesion of Russia, and to countries possessing extraterritorial jurisdiction in the territory of another state.

Chap. V lays down that the convention shall not apply to arms forwarded to the military forces of the exporting country, wherever these forces may be. It is also provided that, in time of war, supervision and publicity, so far as consignment of arms to a belligerent is concerned, shall be suspended.

In the final act the signatories declare that their Governments intend to apply strictly their internal laws and regulations to prevent fraudulent commerce in arms, and to exchange all information on the subject; they declare further that the convention must be considered as an important step toward a general system of international agreements regarding arms and ammunition and implements of war, and that the international aspect of the manufacture of arms should receive early consideration by the different Governments.

By the declaration [1] regarding the territory of Ifni, signed at Geneva, June 17, 1925, which enters into force with the convention,[2] the Spanish Government agrees to the inclusion in the special zones of the territory of Ifni (North Africa) and to the application to this territory of the system set forth in Chap. III of the convention, unless and until it notifies the contracting parties of a decision to the contrary.

Chemical Warfare. The protocol [3] for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare, signed at Geneva, June 17, 1925, has been in force for certain states since April 2, 1927. The protocol enters into force for each state on the date of the deposit of its ratification.[4]

In the protocol contracting states recognize that the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilized world, and that prohibition of such use has been made in treaties to which the majority of states are parties. With a view

[1] *Official Journal*, VI, p. 1154.

[2] France and Venezuela have ratified and Liberia has acceded. The declaration has been signed by Abyssinia, Austria, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, Czechoslovakia, Denmark, Egypt, Estonia, Finland, France, India, Italy, Japan, Latvia, Luxemburg, Netherlands, Poland, Rumania, Salvador, Serb-Croat-Slovene State, Spain and Switzerland.

[3] *Official Journal*, VI, p. 1159; see the previous conclusions of experts in *Report of the Temporary Mixed Commission*, p. 29 (A. 16. 1924. IX).

[4] The ratifications and accessions have been: France, May 9, 1926; Liberia, April 2, 1927; Venezuela, February 8, 1928; Italy, April 3, 1928; Soviet Union, April 5, 1928; Austria, May 9, 1928.

to the acceptance of this prohibition as a part of international law, binding alike the conscience and the practice of nations, the contracting states, in so far as they are not already parties to treaties prohibiting such use, accept this prohibition, agree to extend it to the use of bacteriological methods of warfare, and agree to be bound as between themselves according to the terms of this declaration. The high contracting parties further undertake to do all in their power to induce other states to adhere to the protocol.

The protocol has been signed by Abyssinia, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, Czechoslovakia, Denmark, Egypt, Estonia, Finland, Germany, Greece, India, Japan, Latvia, Lithuania, Luxemburg, Netherlands, Nicaragua, Norway, Poland, Portugal, Rumania, Salvador, Serb-Croat-Slovene State, Siam, Spain, Sweden, Switzerland, Turkey, the United States and Uruguay.

A series of questions respecting chemical warfare has been answered and sent to the Preparatory Commission.

Private Manufacture of Arms. The Members of the League by Art. 8, par. 5, of the Covenant "agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections." They lay upon the Council the duty "to advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety."

Preliminary investigations were made by the Temporary Mixed Commission. After the Conference on Control of the Trade in Arms in 1925, the Council transmitted a series of questions on private manufacture to states and prepared a preliminary draft convention.[1] This draft was criticised by Member states, and in March, 1927,[2] a special Commission on the Private Manufacture of Arms and

[1] *Official Journal*, VI, p. 554, 220; VII, p. 170.
[2] *Ibid.*, VIII, p. 846.

Ammunitions and of Implements of War, consisting of representatives of states Members of the Council, tried to combine all views in a single draft. It tried again in August, 1928, and in November of the same year, both the Eighth and Ninth Assemblies having spurred it on by the passage of resolutions. The chief difference of opinion is whether suppression of arms manufacture should be confined to private plants or be reinforced by publicity on state manufacture.

Exercise of Right of Investigation

The treaties of peace closing the World War contain an article[1] in the following terms:

> So long as the present treaty remains in force Germany [Austria, Bulgaria, Hungary] undertakes to give every facility for any investigation which the Council of the League of Nations, acting if need be by majority vote, may consider necessary.

The Council adopted the scheme of organization with a view to the exercise of the right of investigation on September 27, 1924.[2]

Investigation shall "cover such demilitarization of territory as may be laid down in the treaties and any or all military, naval and air clauses and particularly: (*a*) Legislation such as military laws, budgets; (*b*) strengths; (*c*) material existing or under construction; (*d*) training for war; (*e*) new warship construction." Any Member of the League may communicate information which, in its opinion, calls for exercise by the Council of the right of investigation. Any non-Member of the Council, which is the neighbor of a state subject to investigation, shall be represented in the Permanent Advisory Commission for organizing an investigation. Commissions of investigation shall be constituted from a list of qualified experts appointed by the Governments of:

[1] Art. 213 of the treaty of Versailles, Art. 159 of the treaty of St. Germain, Art. 143 of the treaty of Trianon, Art. 104 of the treaty of Neuilly.

[2] *Official Journal*, V, p. 1592, 1658. The document is C. 541 (1).M. 189 (1). 1924. IX, and is also printed separately.

1. States represented on the Council, except those subject to the right of investigation;
2. Signatories of the appropriate treaty of peace which border on the state under investigation, and
3. A representative of a nonsignatory of the treaties of peace.

Each state furnishes an equal number of experts, and the Permanent Advisory Commission will propose the exact composition of the commission "according to the nature and importance of the investigation." Chairmen of commissions will arrange the order of their work and shall have full latitude respecting its conduct, provided that every local investigation is carried out by at least three experts of different nationalities. The commission will confine itself to the establishment of facts and may call upon the Council for aid and the Permanent Advisory Commission for technical advice or assistance. The Council may provide for continuous investigation in demilitarized zones.

The chairmen of commissions forward their reports to the Council and the Permanent Advisory Commission which will send to the Council a reasoned opinion thereon.

The Council on March 14, 1925, adopted a resolution accepting the report [1] by jurists and representatives of the Permanent Advisory Commission on the ways and means of assuring to members of the commissions the complete execution of their duties. On June 10, 1925, the Council [2] decided to address to the Austrian, Bulgarian, German and Hungarian Governments a letter expressing its confidence that, should the occasion arise, the stipulations of the peace treaties by which states liable to investigation undertook to give every facility to such effect would be fully carried out.

When the scheme of organization was passed in 1924, the Secretariat had not received the final report [3] of the mili-

[1] *Official Journal*, VI, p. 610.

[2] *Ibid.*, p. 863.

[3] For the other reports see *Official Journal*, V, p. 1011; VI, p. 304; but see IX, p. 298, 310, 324, 608.

tary commission. The question of investigation was postponed on the agenda of the Council from June, 1925, until December, 1926, by which time Germany had become a member of it. In the interval, a French proposal for the application to the Rhine demilitarized zone [1] of the right had ceased to have a practical bearing because of the entrance into force of the Locarno treaty of guaranty. Both the disarmament clauses of the treaties of peace and the right of investigation attributed by them to the Council were originally directed principally against Germany, in which the Interallied Military Commission of Control was still functioning after German entrance into the League. The Conference of Ambassadors, which had charge of that commission, represented the states allied against Germany in the World War, in whose interest the control was established. The Council of the League in December, 1926, was anxious to inaugurate the impartial system of right of investigation in succession to the system of control by interested parties. This desire became more pressing and appropriate after the admission of Germany to the League.

The Members of the Council that were represented in the Conference of Ambassadors influenced the latter to reach decisions early in December, 1926. At Geneva on December 12, 1926, representatives of Germany, Belgium, France, Great Britain, Italy and Japan — in the course of, but outside of, the Council meeting — reached an agreement based on the fact that of more than a hundred questions, dividing them in June, 1925, only two were outstanding. They agreed to continue negotiations respecting these, and in any case recorded that the Interallied Commission of Control would withdraw from Germany on January 31, 1927.[2]

Meantime, on December 11, 1926, the Council adopted explanations of the regulations passed in 1924 and 1925, which were intended to make the system more efficient.[3]

[1] For the other reports see *Official Journal*, VI, p. 143. The evacuation of the Coblenz sector occurred by exchange of notes of September 10, 1926 (*Treaty Series*, LXII, p. 141).

[2] For text of the communiqué see *Seventh Yearbook*, Vol. X, p. 260.

[3] *Official Journal*, VIII, p. 162.

Szent-Gotthard Incident. On January 1, 1928, five carloads of machine gun parts were seized by the Austrian customs officials on duty at the Szent-Gotthard joint Austro-Hungarian frontier station, which is in Hungarian territory. The goods were billed as "machine parts," and the falsity of the declaration caused widespread comment. The Czechoslovak, Rumanian and Serb-Croat-Slovene Governments requested an examination of the incident by the Council.

The Council heard those concerned on March 7.[1] It then transpired that the machine gun parts had been destroyed by the Hungarian officials in conformity with the provisions of the Bern railroad convention and because, "as long as the preliminary measures have not been voted by the Council, the Hungarian Government retains entire freedom of action." The Council remitted the question to a Committee of Three, who on March 10 considered that further information was necessary. The Council authorized them to undertake investigations. They invited two arms experts to draw up an inventory and detailed description of what remained of the machine gun parts at Szent-Gotthard. Two other experts on international railroad traffic and customs formalities were also called in. The Committee of Three met at The Hague, May 5–7 to draw up a report. On June 7, the Council provided for preliminary measures in case of disputes occurring in the intervals between Council sessions,[2] as a result of the Hungarian attitude.

The report of the committee of June 7 on the incident itself was inconclusive. The Council regretted that Hungary had considered the matter "exclusively from the standpoint of railway and customs regulations without having found it necessary to concern itself with the question of the final destination of this war material," which the committee had been unable to determine. The Council emphasized the gravity of the incident "and the

[1] *Official Journal*, IX, p. 387, documents at p. 545.

[2] *Ibid.*, p. 905.

importance it attaches to such incidents not recurring." The Hungarian representative had drawn attention to the fact that Hungarian action would have been different if the convention on the control of trade in arms had been in force. The Council in its resolution emphasized the importance of early ratification of this document.[1]

2. Arbitration and Security

Since the 1924 Assembly, attention has been continuously given to realizing the formula "arbitration, security and reduction of armament." The Locarno treaties of 1925 demonstrated its practical value of insuring "peace in one of the most sensitive regions of Europe."[2] In 1926 all treaties exemplifying the thesis were brought together in *Arbitration and Security: A Systematic Survey*.[3] The Assembly that year stated that the principles of conciliation and arbitration and "security by the mutual guaranteeing of states against any unprovoked aggression" should "govern the policy of every civilized nation."

In 1927 the Assembly declared in a resolution:[4]

> (1) That all wars of aggression are, and shall always be, prohibited.
> (2) That every pacific means must be employed to settle disputes, of every description, which may arise between states;
> The Assembly declares that the states Members of the League are under an obligation to conform to these principles.

The Eighth Assembly also adopted a lengthy resolution defining policy on arbitration, security and disarmament. The new feature was provision for the Committee on Arbitration and Security, whose essential duty is "to consider, the lines indicated by the commission, the measures capable of giving all states the guaranties of arbitration

[1] *Official Journal*, IX, p. 918.

[2] *Resolutions and Recommendations adopted by the Assembly* . . . 1926, p. 16.

[3] Document C. 34. M. 74. 1926. V. 14. An enlarged and improved second edition is C. 653. M. 216. 1927. V. 29.

[4] *Resolutions and Recommendations* . . . 1927, p. 22.

and security necessary to enable them to fix the level of their armaments at the lowest possible figures in an international disarmament agreement." [1] This committee was composed of representatives of all states represented on the Preparatory Commission, whether Members or non-Members of the League, if the latter desired to sit.

The Committee on Arbitration and Security submitted to the 1928 Assembly a series of reports and draft conventions, which were perfected by it. The result was a multilateral General Act, and three model bilateral conventions for conciliation, arbitration and judicial settlement, a model collective treaty of mutual assistance, a collective and a bilateral treaty of nonaggression, and a model treaty to strengthen the means of preventing war.[2]

General Act

The object of the General Act is to enable states to adopt standard engagements for the pacific settlement of international disputes and to avoid the development of alternative procedure, which will occur if there is no agreed model. Provision for reservations in three categories is made, so that general acceptance of the document is possible and the systematization of exceptions from jurisdiction arranged. The model bilateral conventions offer various combinations of conciliation, arbitration and judicial settlement suitable for states in different relations with each other, but all aimed at building up a network of treaties on standard lines, whatever the extent of engagement taken by the parties.

On conciliation there already exists a standard established by resolution of the Assembly September 22, 1922,[3] which is much less definite and detailed than the text of 1928. However, the 1922 rules have had an extensive

[1] *Resolutions and Recommendations* . . . 1927, p. 24–25; for commentary see *Records of the Eighth Assembly. Plenary Meetings*, p. 454, or (A. 108. 1927. IX. 11).

[2] The texts are in Document C. 536. M. 163. 1928. IX. 13 and in *Resolutions and Recommendations adopted by the Assembly* . . . 1928, p. 16–59.

[3] *Resolutions and Recommendations adopted by the Assembly* . . . 1922, p. 9.

effect in providing a basis for many bilateral conventions, the commissions under which are recorded with the Secretariat.[1]

Mutual Assistance and Nonaggression

The three model conventions on mutual assistance and nonaggression are designed for those states desiring them and intended to permit the taking of engagements relative to security on a single standard and without conflict with the Covenant. The principle of them is based on the Locarno Rhine pact. The first two articles are the essential engagement, their substance being that of the Locarno treaty and bearing a close similarity to that of the Briand-Kellogg pact for renunciation of war. Those articles read:

Art. 1. Each of the high contracting parties undertakes, in regard to each of the other parties, not to attack or invade the territory of another contracting party, and in no case to resort to war against another contracting party.

This stipulation shall not, however, apply in the case of:

(1) The exercise of the right of legitimate defense — that is to say, resistance to a violation of the undertaking contained in the first paragraph;

(2) Action in pursuance of Art. 16 of the Covenant of the League of Nations;

(3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations or in pursuance of Art. 15, par. 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a state which was the first to attack.

Art. 2. Each of the high contracting parties undertakes, in regard to each of the others, to submit to a procedure of pacific settlement, in the manner provided for in the present treaty, all questions whatsoever on which they may differ and which it has not been possible to settle by the normal methods of diplomacy.

[1] *Official Journal*, VI, p. 1684, 1727, and subsequently under the caption "Procedure of Conciliation."

Assembly Action. After perfecting the seven texts briefly described the Ninth Assembly in its resolutions invited all states to accept the obligations of pacific settlement in the General Act because it was "convinced that the effective machinery for insuring the peaceful settlement of international disputes is an essential element in the cause of security and disarmament." The good offices of the Council are available to bring any negotiations between states to a happy issue.

The Assembly was "convinced that the conclusion between states in the same geographical area of treaties of nonaggression and mutual assistance providing for conciliation, arbitration and mutual guaranties against aggression by any one of them constitutes one of the most practical means that can now be recommended to states anxious to secure more effective guaranties of security." The good offices of the Council are similarly available to states in negotiating such treaties.

Means for War Prevention

A draft model of a treaty to strengthen the means of preventing war was considered by the Ninth Assembly and submitted for the consideration of states. This puts in a formal text the understandings which have grown up in practice with reference to steps taken by the Council when an acute matter is before it. The parties would bind themselves in advance to comply with recommendations of the Council in such a way as not to hinder their execution.

The Committee on Arbitration and Security examined several other phases of the relationship between pacific settlement and security. One of these resulted in an appeal to states to accept the optional clause of the Statute of the Permanent Court of International Justice. By this clause states bind themselves always to submit disputes of a legal character to the Court.

A fruitful study made by the committee on Arts. 10, 11

and 16 of the Covenant brought into prominence "the fact that the League's first task is to forestall war, and that in all cases of armed conflict or of threats of armed conflict, of whatever nature, it must take action to prevent hostilities or to stop hostilities which have already begun." The examination of these three articles demonstrated that the Covenant offers special guaranties of security which should be relied upon to the extent possible.

3. Pacific Settlement of Disputes

By Art. 11 of the Covenant it is "declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."

By Art. 12 "the Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council."

Art. 13 deals with the arbitral method; Art. 14 provides for the Permanent Court of International Justice, which affords the method of judicial decision, and also provides that the Court may give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly; Art. 15 deals with the method of inquiry, which does not result in a binding decision; and Art. 17 extends the whole system by invitation to states non-Members of the League.

The system does not contemplate handling of any dispute until the resources of the parties respecting its settlement are exhausted; that is, direct negotiations are recognized as the normal method of adjusting difficulties between nations.

Procedure. Disputes may be brought to the attention of the Council by one or more of the states parties to it or by a disinterested Member of the League.

The jurisdiction of the League does not extend to matters solely of domestic concern.

Parties are heard on a footing of equality, their representatives sitting as Members of the Council at any meeting during the consideration of matters affecting them.

The representatives of states parties to a dispute, even though they are members of the Council, have no vote in deciding the dispute. Decisions are unanimous.[1]

When the facts involve a question of law, such as the interpretation of a treaty or the effect of a decision, the Permanent Court of International Justice has in several instances been requested to give an advisory opinion upon the moot point.

The Council has made use of committees of jurists and of committees of inquiry in connection with disputes brought before it.

The Council has instructed the Secretary General, in the case of a request for investigation or of dispute, to inform the parties immediately that, when a question has been submitted to the Council, "it is extremely desirable that the Governments concerned should take whatever steps may be necessary or useful to prevent anything occurring in their respective territories which might prejudice the examination or settlement of the question by the Council." The parties are also requested to reply stating the steps which have been taken.[2]

The primary object of the Council is, in the first instance, by processes of conciliation to secure some definite decision which will either solve the difference or advance it toward solution. Frequently disputants reach their own solution between sessions of the Council, which no longer needs to concern itself with the substance of the matter. The regular meetings of the Council make it easy to repeat this process if the direct efforts of the states have not been fruitful.

[1] An advisory opinion of the Court has dealt with unanimity, Publications of the Court, Series B, No. 12.

[2] Resolution of June 7, 1928, *Official Journal*, IX, p. 909–910.

Disputes Handled

The following notes indicate the variety and results of disputes brought before the Council:

Aaland Islands. On June 19, 1920, the British Government brought the case of the Aaland Islands before the Council. The dispute lay between Sweden and Finland, which was not yet a Member of the League. The claim was made that the question was within the domestic jurisdiction of Finland. This contention was submitted to a commission of jurists, which found it incorrect and held that the Council was competent to deal with the question. The Council then dispatched a commission of rapporteurs to the Aaland Islands, who presented a very full report on which the Council based its resolution of June 24, 1921.[1] This recognized Finnish sovereignty over the Aaland Islands, but stipulated that provisions for nonfortification and neutralization of the Archipelago dating from 1856 were to be maintained and that further guaranties for the protection of the islanders should be assured.

In accordance with the resolution, a regional Baltic conference relative to the nonfortification and neutralization of the Aaland Islands was held October 10–20, 1921, and the convention establishing their demilitarization and affording the requisite protection was signed on behalf of the British Empire, Denmark, Finland, Italy, Poland, France, Germany, Sweden and Latvia. The convention entered into force April 6, 1922.[2]

Poland–Lithuania. On September 5, 1920, Poland appealed to the Council to prevent war with Lithuania because Lithuanian troops had crossed the provisional frontier assigned to Poland. On September 20 before the Council both agreed to maintain neutrality, and a *modus vivendi*, including a frontier demarkation, was signed on October 7.[3] Meantime, General Zeligowski, whom the

[1] *Official Journal*, I, p. 248, 249.
[2] *Treaty Series*, IX, p. 212.
[3] *Ibid.*, VIII, p. 181.

Polish Government declared was acting as a rebel, occupied the city of Vilna, which had a desire, it was alleged, to become Polish. The Council proposed a plebiscite, intrusting its organization to its commission of control, which was in the disputed territory. Direct negotiations under the presidency of a member of the Council failed to bring agreement on two occasions. A neutral zone was then established. Zeligowski left Vilna in November, 1921, but his troops remained. On March 24, 1922, Poland annexed Vilna. In May, 1922, Lithuania asked the Conference of Ambassadors to fix the frontier line. The Council fixed the provisional frontier, in February, 1923, and on March 15 the Conference of Ambassadors, in accordance with the Lithuanian request, fixed a line on that basis. Lithuania asked the Fourth Assembly to consider the matter and withdrew the request at the Fifth Assembly in 1924.

In October, 1927, Lithuania complained to the Council against the expulsion by Polish authorities of several persons from Vilna. Lithuania and Poland, both organized after the war, had never established diplomatic relations, and great tension existed between them because Lithuania was not reconciled to Poland's holding of Vilna. The heads of the two Governments came to Geneva in December,[1] and the delicate question of their general relations was threshed out. Lithuania stated to the Council that she "does not consider herself in a state of war with Poland," and Poland recorded that it had no designs against Lithuania. On these mutual understandings the two Governments were recommended to enter into direct negotiations to settle all their difficulties.[2] In March, June [3] and September, 1928, the Council heard the parties and on each occasion learned that Lithuania had resorted to technical objections to delay the diplomatic negotiations, which had, therefore, not made much progress. Both

[1] *Official Journal*, IX, p. 144

[2] *Ibid.*, p. 177.

[3] *Ibid.*, p. 885.

parties, however, admitted their duties toward the Council, which in September passed a resolution to place Polish-Lithuanian relations in general on its agenda, thus forecasting an examination by the Council of the political differences and tension between the parties. In December Lithuania assented to the League's technical organization's examining the questions at issue.

Albania. In June, 1921, Albania alleged to the Council that Greek and Serb-Croat-Slovene troops were in its territory. A little later, when the Conference of Ambassadors was fixing the frontier, it requested the Council to appoint a commission to report on the execution of its decision. In November, 1921, press reports stated that Serbian forces were advancing into Albania. Great Britain brought that fact before the Council on the ground that a plan was on foot to detach part of Albania. While the Council was in session on that appeal, the decision of the Conference of Ambassadors as to the Albanian frontiers was issued. The League commission was maintained in Albania until 1923 in order to guide the first steps of the new Government.[1]

Eastern Carelia. In November, 1921, disorder broke out in Eastern Carelia, which was granted a form of autonomy under the treaty of peace [2] between Finland and Russia. Finland brought the matter before the Council, but the Soviet Union claimed it was a domestic matter. The Council referred this question to the Permanent Court for an advisory opinion, which the Court declined to render because the Soviet Union refused to appear. The Council did not pursue examination of the question for the same reason, nor did Finland subsequently complain of the treatment of the inhabitants of Eastern Carelia.

Jaworzina Frontier. The Czechoslovak-Polish frontier in the Jaworzina region was fixed by a decision of the Conference of Ambassadors on July 28, 1920. The delimitation commission laid down a modified line to which

[1] *Official Journal* V, p. 546, 843, 924, 1017, 1298.

[2] *Treaty Series*, III, p. 6.

Czechoslovakia protested, and the difficulty thus created was referred to the Council. The question hinged on the finality of the 1920 decision, a legal matter on which the Permanent Court was asked for an advisory opinion. On that basis the Council made a recommendation, and the Conference of Ambassadors again asked it to recommend a definitive line, which it did acceptably. The territory in dispute was established as the international game reserve of Tatra by the parties.

Iraq Boundary. The treaty of peace with Turkey, signed at Lausanne July 24, 1923,[1] provided that the frontier between Turkey and Iraq was to be laid down by agreement between Turkey and Great Britain. If this was not done in nine months, it was to be referred to the Council of the League, to which it was brought in 1924. A commission of inquiry was dispatched to look over the ground, the Council fixing a provisional line in the interval.[2] In September, 1925, the Council resumed examination of the question, which was extensively argued.[3] A point as to the voting procedure in taking the decision was referred to the Permanent Court for an advisory opinion. The Council thus had a basis for reaching a final decision without the votes of the disputants counting, and it rendered a decision which ran the boundary line through the Mosul district (which contains oil) on December 16, 1925. This line was made definitive by the Council on March 11, 1926. Subsequent negotiations between Great Britain and Turkey resulted in a small cession to Turkey and the completion of an agreement fixing the final line.[4]

Upper Silesia. A plebiscite in the valuable mining district of Upper Silesia resulted in a vote that made the territory look like a German-Polish checkerboard. It fell to the Supreme Council of the Allied Powers to draw the boundary line determined by the plebiscite. They re-

[1] *Treaty Series*, XXVIII, p. 17.
[2] *Official Journal*, V, p. 1659.
[3] *Ibid.*, VI, p. 1310–1439.
[4] *Ibid.*, VII, p. 858.

ferred the problem to the League, and the Council decided that, since the plebiscite area was an industrial unit, a transitional régime, which would preserve the economic life of the district, was necessary. The Conference of Ambassadors adopted these recommendations on October 20, 1921, and German-Polish negotiators met at Geneva, under the presidency of a Council appointee, to elaborate the very detailed system for the administration of Upper Silesia as an economic whole for a period of 15 years. The German-Polish convention was signed on May 15, 1922,[1] and entered into force on June 3, 1922.

Greece–Italy. The Italian member of a commission of the Conference of Ambassadors, which was fixing the boundary between Albania and Greece, was murdered on the Greek side of the border on August 27, 1923. Italy made demands for amends in a 24-hour ultimatum, which included a stipulation to pay an indemnity of 50,000,000 lire. The Greek reply did not accept all of the demands, including that one, whereat the Italian naval vessels occupied the Greek island of Corfu at the mouth of the Adriatic Sea, after a bombardment in which some 20 refugee children lost their lives. On September 1, Greece appealed to the Council under Arts. 12 and 15 of the Covenant. The Italian representative claimed that the question was one for the Conference of Ambassadors; but the Assembly, which was in session, was decidedly, though informally, of the opinion that the League had a responsibility in the affair. On September 6, the Council discussed proposed terms of settlement, but on the objection of the Italian representative failed to pass them. The proposals were then rushed to Paris for the information of the Conference of Ambassadors, which on September 7 substantially adopted them. This decision was accepted by both Greece and Italy. Inquiry on the ground failed to prove that Greece was guiltless of the murder, and the Conference of Ambassadors on September 25 awarded to Italy the indemnity originally claimed by her. Meantime, Italy

[1] The *Convention germano-polonaise* is published separately.

had voluntarily announced an intention to evacuate Corfu on September 27 and did so. In a political sense this last action was of importance, because in the past such instances had frequently led to forced cessions of territory.

Memel. The Conference of Ambassadors was intrusted by the treaty of Versailles with finally disposing of the territory of Memel. Lithuania was unwilling to accept the terms for its transfer, and the question of bringing about an agreement was referred to the Council. It appointed a commission that worked out a convention, signed at Paris, May 18, 1924, by which the British Empire, France, Italy and Japan transferred Memel to Lithuania.[1]

Any infraction of the convention may be brought before the Council. On June 9, 1926, a memorandum from the Diet of Memel alleging violation by Lithuania of the Memel convention came before the Council. Lithuania [2] contested the form of procedure adopted for hearing such complaints.[3] A committee of jurists decided that the complaint was not convincing as to the existence of infractions. Accordingly, Great Britain, France, Italy and Japan withdrew their complaint.[4]

Bulgaria–Greece. On October 22, 1925, the Bulgarian minister of foreign affairs telegraphed to the Secretary-General that, as a result of a border fight between sentries, Greek troops had been ordered to advance into Bulgarian territory and were about five miles over the line. He appealed to the League [5] under Art. 11, par. 1, of the Covenant, by which it is the duty of the Secretary-General to "forthwith summon a meeting of the Council." The Council met at Paris, October 26 at 6 P.M., one member arriving by airplane.

After statements by the Bulgarian and Greek repre-

[1] *Treaty Series*, XXIX, p. 85.
[2] *Official Journal*, VII, p. 1273.
[3] *Ibid.*, VI, p. 1395.
[4] *Ibid.*, VII, p. 1407–1424.
[5] *Ibid.*, VI, p. 1696.

sentatives, they were brought to associate with the Council in calling upon the two Governments to give unconditional orders for their troops to withdraw behind their respective frontiers within 24 hours, and to accomplish that within 60 hours.[1] This was accomplished, and other phases of the difficulty were discussed until October 29, when the Council appointed a commission to investigate on the spot. Both parties agreed in advance to accept the decisions of the Council.

The report came before the Council on December 7 and involved a payment of 30,000,000 levas ($210,000) by Greece to Bulgaria for damage done, and this was duly paid. The report brought out the great danger to peace due to soldiers being continuously in close juxtaposition along a border where tension and the disorder of Bulgarian *comitajis* existed. The Council recommended that two Swedish officers should be attached to the Greek and Bulgarian forces to settle any disputes arising between the border forces, a neutral president to be added in case a question arose. As disorder has not occurred, no president has been appointed.

The report called attention to the fact that the Greek order to suspend operations reached the scene of action only two hours and a half before the attack was timed to begin. The conclusion was that a state of hostilities was narrowly averted by the prompt action of the Council. This circumstance has since led to extensive investigations as to the means of insuring the prompt meeting of the Council in case of emergency and of speeding up any emergency messages it might have occasion to send.[2]

Hungary–Rumania. Certain Hungarian optants, affected by the Council's minorities decision of 1923 [3] brought their case before the Mixed Rumanian and Hungarian Arbitral Tribunal established by Art. 239 of the treaty of Trianon. Rumania withdrew its arbitrator. By the

[1] *Official Journal*, VI, p. 1699.
[2] *Ibid.*, VIII, p. 226, 1280 *ff.*
[3] See p. 165.

treaty, the Council may appoint arbitrators on those tribunals. Rumania made a statement to the Council on March 8, 1927,[1] Hungary also presenting its side. A Committee of the Council, having failed to bring the parties together, the conclusions of a committee of jurists on the legal aspects of the question was presented to the disputants. Rumania accepted this report, but Hungary did not, proposing that the Council request an advisory opinion of the Permanent Court as to whether the Mixed Arbitral Tribunal had exceeded its powers. Direct negotiations failed in September, 1927, and March, 1928. In August, 1928, however, the two parties had been brought to a point where negotiations were resumed, and when the Council met in December, 1928, these were still under way.

[1] *Official Journal*, VIII, p. 350, 1379, 1411.

MEETINGS OF REGULAR ORGANS AND COMMITTEES

Assembly

1. Nov. 15–Dec. 15, 1920. President, M. Hymans of Belgium. Representatives of 41 Member states present.
2. Sept. 5–Oct. 5, 1921. President, Jonkheer van Karnebeek of The Netherlands. Representatives of 45 Member states present.
3. Sept. 4–30, 1922. President, Agustín Edwards of Chile. Representatives of 46 Member states present.
4. Sept. 3–29, 1923. President, Cosme de la Torriente y Peraza of Cuba. Representatives of 49 Member states present.
5. Sept. 1–Oct. 3, 1924. President, Giuseppe Motta of Switzerland. Representatives of 51 Member states present.
6. Sept. 7–26, 1925. President, Raoul Dandurand of Canada. Representatives of 49 Member states present.

Special Session. Mar. 8–17, 1926. President, Affonso Augusto da Costa of Portugal. Representatives of 48 Member states present.

7. Sept. 6–25, 1926. President, Momchilo Ninchich of the Serb-Croat-Slovene State. Representatives of 49 states present.
8. Sept. 5–27, 1927. President, Alberto Guani of Uruguay. Representatives of 49 states present.
9. Sept. 3–26, 1928. President, Herluf Zahle of Denmark. Representatives of 50 states present.
10. Sept. 2– , 1929.

Council

1. Paris, Jan. 16, 1920.
2. London, Feb. 11–13, 1920.
3. Paris, March 12–13, 1920.
4. Paris, April 9–11, 1920.
5. Rome, May 14–19, 1920.
6. London, June 14–16, 1920.
7. London, July 9–12, 1920.
8. San Sebastian, July 30–Aug. 5, 1920.
9. Paris, Sept. 16–20, 1920.
10. Brussels, Oct. 20–28, 1920.
11. Geneva, Nov. 15–Dec. 18, 1920.
12. Paris, Feb. 21–March 4, 1921.
13. Geneva, June 17–28, 1921.
14. Geneva, Aug. 20–Oct. 12, 1921.

Extraordinary. Geneva, Aug. 29–Oct. 12, 1921.

15. Paris, Nov. 16–19, 1921.
16. Geneva, Jan. 10–14, 1922.
17. Paris, March 24–28, 1922.
18. Geneva, May 11–17, 1922.
19. London, July 17–24, 1922.
20. Geneva, Aug. 31–Oct. 4, 1922 ("A" mandate).
21. Geneva, Aug. 31–Oct. 4, 1922.
22. Geneva, Aug. 31–Oct. 4, 1922 (Austria).
23. Paris, Jan. 29–Feb. 3, 1923.

24. Geneva, April 17–23, 1923.
25. Geneva, July 2–7, 1923.
26. Geneva, Aug. 31–Sept. 29, 1923.
27. Paris, Dec. 10–21, 1923.
28. Geneva, March 10–15, 1924.
29. Geneva, June 11–17, 1924.
30. Geneva, Aug. 29–Oct. 3, 1924.
31. Brussels, Oct. 27–31, 1924.
32. Rome, Dec. 8–13, 1924.
33. Geneva, March 9–14, 1925.
34. Geneva, June 8–13, 1925.
35. Geneva, Sept. 2–28, 1925.
36. (Extraordinary.) Paris, Oct. 26–30, 1925. (Greco-Bulgarian incident.)
37. Geneva, Dec. 7–16, 1925.
38. Geneva, Feb. 12, 1926.[1]
39. Geneva, March 8–18, 1926.
40. Geneva, June 7–10, 1926.
41. Geneva, Sept. 2–7, 1926.
42. Geneva, Sept. 16–20, 1926.[2]
43. Geneva, Dec. 6–11, 1926.
44. Geneva, March 7–12, 1927.
45. Geneva, June 13–17, 1927.
46. Geneva, Sept. 1–15, 1927.
47. Geneva, Sept. 17–28, 1927.[2]
48. Geneva, Dec. 5–12, 1927.
49. Geneva, March 5–10, 1928.
50. Geneva, June 4–9, 1928.
51. Geneva, Aug. 30–Sept. 8, 1928.
52. Geneva, Sept. 12–26, 1928.[2]
53. Lugano, Dec. 10–15, 1928.

Permanent Advisory Commission on Armaments

1. San Sebastian, Aug. 3–5, 1920.
2. Brussels, Oct. 12–28, 1920.
3. Geneva, Nov. 25–Dec. 4, 1920 (during Assembly).
4. Paris, Feb. 25–March 1, 1921.
5. Geneva, June 21–27, 1921.
6. Geneva, Sept. 6–24, 1921 (during Assembly).
7. Geneva, May 12–17, 1922.
8. Geneva, Aug. 30–Sept. 7, 1922 (during Assembly).
9. Geneva, Dec. 5–8, 1922.
10. Geneva, April 16–23, 1923.
11. Geneva, July 5–7, 1923.
12. Geneva, Sept. 4–6, 1923 (during Assembly).
13. Geneva, Feb. 6–7, 1924 (with Temporary Mixed Commission).
14. Paris, May 12–20, 1924.
15. Geneva, Aug. 28–Sept. 27, 1924 (during Assembly).
16. Geneva, Nov. 12–14, 1924.
17. Geneva, Feb. 5–10, 1925.
18. Geneva, June 8–9, 1925.
19. Geneva, March 9, 1926.
20. Geneva, April 6, 1927.

Temporary Mixed Commission for the Reduction of Armaments

1. Paris, July 16–19, 1921.
2. Geneva, Sept. 1–3, 1921 (during Assembly).
3. Paris, Feb. 20–24, 1922.
4. Paris, July 3–7, 1922.
5. Geneva, Sept. 1–6, 1922 (during Assembly).
6. Geneva, Feb. 9–12, 1923.
7. Geneva, June 4–8, 1923.
8. Paris, Aug. 3–8, 1923.
9. Geneva, Feb. 4–8, 1924.
10. Geneva, July 71–2, 1924.

[1] To convoke Special Session of the assembly.

[2] Meeting after reorganization of membership.

Preparatory Commission for the Disarmament Conference

1. Geneva, May 18–26, 1926.
2. Geneva, Sept. 22–27, 1926.
3. Geneva, March 21–April 26, 1927.
4. Geneva, Nov. 30–Dec. 3, 1927.
5. Geneva, March 15–24, 1928.

Committee on Arbitration and Security

1. Geneva, Dec. 1–3, 1927.
   Rapporteurs: Prague, Jan. 26, 1928.
2. Geneva, Feb. 20–March 7, 1928.
3. Geneva, June 27–July 4, 1928.

Committee of Experts on the Private Manufacture of Arms, etc.

1. Prague, April 26–29, 1924.
2. Geneva, July 8, 1924.
3. Geneva, Feb. 19, 1925.
4. Paris, April 21, 1925.
5. Paris, April 12–16, 1926.
6. Paris, July 30–31, 1926.

Special Commission to Prepare a Draft Convention on Private Manufacture of Arms, etc.

1. Geneva, March 14–April 25, 1927.
2. Geneva, Aug. 27–30, 1928.
3. Geneva, Dec. 4–8, 1928.

Financial Committee

1. Geneva, Nov. 23–Dec. 1, 1920.
2. London, Feb. 24–28, 1921.
3. Paris, March 28–31, 1921.
4. London, May 23–31, 1921.
5. Geneva, Aug. 31–Sept. 8, 1921.
6. London, Feb. 23–March 1, 1922.
7. Geneva, June 6–9, 1922.
8. Geneva, Sept. 4–8, 1922.
9. Geneva, Sept. 9–Oct. 3, 1922.
10. Geneva, June 21–24, 1923.
11. Geneva, Aug. 31–Sept. 5, 1923.
12. London, Nov. 20–28, 1923.
13. Paris, Dec. 12–20, 1923.
14. London, Jan. 18–22, 1924.
15. Geneva, June 11–17, 1924.
16. Geneva, Sept. 9–15, 1924.
17. Geneva, Feb. 6–13, 1925.
18. Geneva, June 4–8, 1925.
19. Geneva, Sept. 2–9, 1925.
20. Geneva, Dec. 3–8, 1925.
21. Geneva, March 5–8, 1926.
22. Geneva, June 3–9, 1926.
23. London, July 19–23, 1926.
24. Geneva, Sept. 2–9, 1926.
25. Geneva, Dec. 2–8, 1926.
26. Geneva, March 2–9, 1927.
27. Geneva, June 8–14, 1927.
28. Geneva, Sept. 1–7, 1927.
29. Geneva, Nov. 29–Dec. 7, 1927.
30. Geneva, Feb. 27–March 7, 1928.
31. Geneva, May 30–June 4, 1928.
32. Geneva, Aug. 30–Sept. 5, 1928.
33. Geneva, Dec. 4–8, 1928.

Consultative Economic Committee

1. Geneva, May 14–19, 1928.

Economic Committee

1. Geneva, Nov. 30–Dec. 6, 1920.
2. London, Feb. 22–25, 1921.
3. Geneva, Sept. 3–12, 1921.
4. Geneva, March 20–25, 1922.
5. Geneva, June 8–10, 1922.
6. Geneva, Sept. 4–13, 1922.
7. Geneva, Jan. 20–23, 1923.
8. Geneva, March 26–29, 1923.
9. Geneva, May 14–16, 1923.
10. Geneva, Aug. 30–Sept. 3, 1923.
11. Geneva, Feb. 26–29, 1924.
12. Geneva, May 8–11, 1924.
13. Geneva, Aug. 26–30, 1924.
14. Geneva, Jan. 28–31, 1925.
15. Geneva, May 26–June 3, 1925.
16. Geneva, Aug. 31–Sept. 5, 1925.
17. Geneva, Nov. 30–Dec. 4, 1925.
18. Geneva, March 1–6, 1926.
19. Paris, June 14–17, 1926.
20. Geneva, Aug. 30–Sept. 3, 1926.
21. Rome, Feb. 25–March 2, 1927.
22. Geneva, July 12–14, 1927.
23. Geneva, Dec. 15–21, 1927.
24. Geneva, March 26–30, 1928.
25. Geneva, June 25–28, 1928.
26. Geneva, Oct. 23–30, 1928.
27. Geneva, Jan. 14– , 1929.

Committee of Experts on Double Taxation

Geneva, March 14–17, 1922.
Geneva, June 4–9, 1923.
Geneva, Oct. 8–13, 1923.
Geneva, March 31–April 7, 1924.
Geneva, Oct. 20–27, 1924.
Geneva, Feb. 2–7, 1925.
Geneva, May 17–22, 1926.
Geneva, Jan. 5–12, 1927.
London, April 5–12, 1927.
Geneva, Oct. 22–31, 1928.

Advisory and Technical Committee for Communications and Transit

1. July 25–28, 1921. Willem Jan Marie van Eysinga, Netherlands, chairman.
2. March 29–April 1, 1922. Willem Jan Marie van Eysinga, Netherlands, chairman.
3. Aug. 30–Sept. 2, 1922. Benjamin Fernandez y Medina, Uruguay, chairman.
4. Geneva, April 23–30, 1923. Benjamin Fernandez y Medina, Uruguay, chairman.
5. Geneva, Aug. 29–Sept. 1, 1923. Benjamin Fernandez y Medina, Uruguay, chairman.
6. Geneva, March 12–14, 1924. J. G. Baldwin, Great Britain, chairman.
7. Geneva, Nov. 26–28, 1924. J. G. Baldwin, Great Britain, chairman.
8. Geneva, July 24–30, 1925. Yotaro Sugimura, Japan, chairman.

9. Geneva, July 12–17, 1926. Aristide de Aguero y Bethancourt, Cuba, chairman.
10. Geneva, Feb. 28–March 5, 1927. Aristide de Aguero y Bethancourt, Cuba, chairman.
11. Geneva, Aug. 19–22, 1927. Aristide de Aguero y Bethancourt, Cuba, chairman.
12. Geneva, Feb. 24–March 7, 1928. Girolamo Sinigalia, Italy, chairman.

Special Committee of Inquiry on Reform of the Calendar

1. Paris, May 19–20, 1924.
2. Geneva, Feb. 16–17, 1925.
3. Geneva, June 23–24, 1926.

Health Committee

Provisional Health Committee

1. Geneva, Aug. 25–29, 1921.
2. Paris, Oct. 20–22, 1921.
3. Paris, May 11–16, 1922.
4. Geneva, Aug. 14–21, 1922.
5. Geneva, Jan. 8–13, 1923.
6. Paris, May 26–June 6, 1923.

Standing Health Committee

1. Geneva, Feb. 11–21, 1924.
2. Paris, May 7–10, 1924.
3. Geneva, Sept. 29–Oct. 4, 1924.
4. Geneva, April 20–25, 1925.
5. Geneva, Oct. 8–14, 1925.
6. Geneva, April 26–May 1, 1926.
7. Paris, June 19–20, 1926.
8. Geneva, Oct. 13–19, 1926.
9. Geneva, Feb. 14–18, 1927.
10. Paris, April 26–27, 1927.
11. Geneva, Oct. 18–Nov. 3, 1927.
12. Geneva, April 30–May 5, 1928.
13. Geneva, Oct. 25–31, 1928.

Advisory Committee on Opium and Other Dangerous Drugs

1. Geneva, May 2–5, 1921.
2. Geneva, April 19–29, 1922.
3. Geneva, Sept. 1, 1922.
4. Geneva, Jan. 8–14, 1923.
5. Geneva, May 24–June 7, 1923.
6. Geneva, Aug. 4–11, 1924.
7. Geneva, Aug. 24–31, 1925.
8. Geneva, May 26–June 8, 1926.
9. Geneva, Jan. 17–Feb. 3, 1927.
10. (Extraordinary.) Geneva, Sept. 28–Oct. 8, 1927.
11. Geneva, April 12–27, 1928.

International Committee on Intellectual Cooperation

1. Geneva, Aug. 1–5, 1922.
2. Geneva, July 26–Aug. 2, 1923.
3. Paris, Dec. 5–8, 1923.
4. Geneva, July 25–29, 1924.
5. Paris, May 11–15, 1925.
6. Geneva, July 27–30, 1925.
7. Paris, Jan. 14–18, 1926.
8. Geneva, July 26–29, 1926.
9. Geneva, July 22–26, 1927.
10. Geneva, July 25–31, 1928.

Permanent Mandates Commission

1. Geneva, Oct. 4–8, 1921.
2. Geneva, Aug. 1–11, 1922.
3. Geneva, July 20–Aug. 10, 1923.
4. Geneva, June 24–July 8, 1924.
5. Geneva, Oct. 23–Nov. 6, 1924.
6. Geneva, June 26–July 10, 1925.
7. Geneva, Oct. 19–30, 1925.
8. (Extraordinary). Rome, Feb. 16–March 6, 1926.
9. Geneva, June 8–25, 1926.
10. Geneva, Nov. 4–19, 1926.
11. Geneva, June 20–July 6, 1927.
12. Geneva, Oct. 24–Nov. 11, 1927.
13. Geneva, June 12–29, 1928.
14. Geneva, Oct. 26–Nov. 13, 1928.

Temporary Committee on Slavery

Geneva, July 9–12, 1924.
Geneva, July 13–25, 1925.

Advisory Commission for the Protection and Welfare of Children and Young People

1. Geneva, June 28–July 1, 1922.
2. Geneva, March 22–27, 1923.
3. Geneva, April 7–11, 1924.
4. Geneva, May 20–27, 1925.
5. Geneva, March 22–April 1' 1926.
6. Geneva, April 25–May 6, 1927.
7. Geneva, March 12–24, 1928.

Committee on Traffic in Women and Children

5. Geneva, March 22–25, 1926.
6. Geneva, April 25–29, 1927.
7. Geneva, March 12–17, 1928.

Child Welfare Committee

1. Geneva, May 23–25, 1925.
2. Geneva, March 25–April 1, 1926.
3. Geneva, May 2–6, 1927.
4. Geneva, March 19–24, 1928.

ORIGIN
AND
CONCLUSION
OF
THE PARIS PACT

The Renunciation of War as an Instrument of National Policy

By DENYS P. MYERS
Director of Research, World Peace Foundation

WORLD PEACE FOUNDATION PAMPHLETS
40 MT. VERNON STREET, BOSTON
VOL. XII 1929 NO. 2

Copyright, 1929
By World Peace Foundation
Boston, Massachusetts

Other Recent Books by the Same Author:

ARBITRATION AND THE UNITED STATES
NINE YEARS OF THE LEAGUE OF NATIONS

CONTENTS

		PAGE
I.	Efforts to Limit the War Power	1
	The problem of sanctions	4
	The forestalling of war	9
	Aggressive war called a crime	12
	"Arbitration, security, reduction of armament"	14
	Geneva protocol fails	16
	Effects of Locarno	18
	Growth of pacific settlement	21
	The place of the Permanent Court	23
	Aggression and pacific settlement	25
	General Act and model treaties	27
	Attitude of the United States	31
II.	Negotiation of the Treaty	34
	1. The French proposal	34
	Reception in United States	35
	2. The mutilateral proposal	37
	Multilateral form agreed to	40
	Debate over aggression	41
	American position	43
	Drafts sent to principal Governments	45
	Dominions and Locarno states added	48
	Interpretative note of June 23	50
	Assent of fourteen invited parties	53
III.	Entrance of the Treaty into Force	57
	1. Signing and extension to the world	57
	Forty-nine invitations to adhere	58
	2. Action of the American Senate	63
	Formal report and passage	66
	3. Soviet Union negotiates Moscow Protocol	71
	4. Ratifications and adhesions	74
	Status of General Treaty for Renunciation of War	77
IV.	American System of Pacific Settlement	81
	New arbitration treaty	83
	Changes in arbitral scope	85
	Appointment of conciliation commissioners	90
	Network of treaties	91
	Conspectus of American treaties	94

Appendix I

I. Franco-American Negotiations on the Renunciation of War: PAGE

1. Draft of Pact of Perpetual Friendship between France and the United States, June 20, 1927 . 101
2. The Secretary of State to the French Ambassador, December 28, 1927 102
3. The French Ambassador to the Secretary of State, January 5, 1928 103
4. The Secretary of State to the French Ambassador, January 11, 1928 105
5. The French Ambassador to the Secretary of State, January 21, 1928 107
6. The Secretary of State to the French Ambassador, February 27, 1928 109
7. The French Ambassador to the Secretary of State, March 30, 1928 111

II. Proposals to the "Principal Powers":

1. Note delivered by American Ambassadors at London, Berlin, Rome and Tokyo, April 13, 1928 . . 116
2. Draft of proposed treaty submitted by the French Government to the United States, Great Britain, Germany, Italy and Japan, April 20, 1928 . . 119
3. Reply of the German Government to the American Government's note, April 27, 1928 . . . 121
4. The Italian Minister of Foreign Affairs to the American Ambassador, May 4, 1928 122
5. The Minister for Foreign Affairs of Japan, Baron Giichi Tanaka, to the American Ambassador in Tokyo, Charles MacVeagh, May 26, 1928 . . 123
6. The Secretary of State for Foreign Affairs of Great Britain, Sir Austen Chamberlain, to the American Ambassador in London, Alanson B. Houghton, May 19, 1928 124

III. Inclusion of Self-Governing Dominions:

1. Note to His Britannic Majesty's Governments in Canada, Irish Free State, Australia, New Zealand, South Africa and India, May 22, 1928 . . 128
2. Canadian Reply, May 30, 1928 129
3. Reply of the Irish Free State Government to Minister Sterling at Dublin, May 30, 1928 . . . 130
4. Reply of the New Zealand Government through the British Ministry for Foreign Affairs, May 30, 1928 131
5. Reply of the Commonwealth of Australia through the British Ministry for Foreign Affairs, June 2, 1928 132
6. Reply of the Government of India through the British Ministry for Foreign Affairs, June 11, 1928 . . 132
7. Reply of the Government of the Union of South Africa through the British Ministry for Foreign Affairs, June 15, 1928 133

IV. Second American Draft: PAGE
1. Identic notes to the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, Irish Free State, Italy, Japan, New Zealand, Poland, and South Africa, and accompanying draft multilateral Treaty for the Renunciation of War, delivered at the respective Foreign Offices, June 23, 1928 135
2. Reply of the German Government, July 11, 1928 . 142
3. Reply of the French Government, July 14, 1928 . 143
4. Reply of the Government of the Irish Free State, July 14, 1928 144
5. Reply of the Italian Government, July 15, 1928 . 145
6. Reply of the Canadian Government, July 16, 1928 . 145
7. Reply of the Government of Belgium, July 17, 1928 . 145
8. Reply of the Government of Poland, July 8, 1928 . 146
9. Reply of the Government of Great Britain, July 18, 1928 147
10. Reply of the Australian Government, July 18, 1928 . 149
11. Reply of the Government of India, July 18, 1928 . 149
12. Reply of the Government of New Zealand, July 18, 1928 150
13. Reply of the Government of the Union of South Africa, July 18, 1928 150
14. Reply of the Czechoslovak Government, July 20, 1928 151
15. Reply of the Japanese Government, July 20, 1928 . 153

Appendix II

I. The Treaty for the Renunciation of War . . 155
1. Text of the Treaty as signed at Paris, August 27, 1928 155
II. Invitation to Other States to Adhere . . . 158
1. The note of invitation 158
2. Selected replies to the invitation 160
a. Afghanistan (adhesion) 160
b. Brazil 161
c. Cuba (adhesion *ad referendum*) . . . 161
d. Egypt (adhesion *ad referendum*) . . . 163
e. Hungary (adhesion *ad referendum*) . . . 164
f. Lithuania (adhesion *ad referendum*) . . 165
g. Persia (adhesion *ad referendum*) . . . 166
h. Rumania 166
i. The Soviet Union (adhesion *ad referendum*) . 167
j. Switzerland 172
III. Ratifications and Adhesions 174
1. Declaration of adhesion of the Union of Socialist Soviet Republics, September 6, 1928 . . . 174
2. Ratification of the United States, January 17, 1929 . 174
3. Procès Verbal of the deposit of ratifications of the Treaty signed at Paris, August 27, 1928 . . 175
IV. Protocol Signed at Moscow February 9, 1929, on Behalf of the Governments of Estonia, Latvia, Poland, Rumania and the Union of Socialist Soviet Republics 177

Appendix III

PAGE

I. The Pacific Settlement System 179
1. The United States 179
a. Treaty of Arbitration 179
b. Treaty of Conciliation 181
2. The General Act adopted by the League of Nations Assembly, September 26, 1928 . . . 182
Convention A. Bilateral Convention for the Pacific Settlement of All International Disputes . 191
Convention B. Bilateral Convention for Judicial Settlement, Arbitration and Conciliation . . 193
Convention C. Bilateral Conciliation Convention 193
Treaty D. Collective Treaty of Mutual Assistance 194
Treaty E. Collective Treaty of Non-Aggression . 196

ORIGIN AND CONCLUSION OF THE PARIS PACT

THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL POLICY

By Denys P. Myers

I. EFFORTS TO LIMIT THE WAR POWER

The treaty for the renunciation of war, which is popularly referred to both as the Briand-Kellogg pact after its coauthors and as the Paris pact from the place of its signature, entered into force on July 24, 1929. The ceremony of depositing the ratifications of the 15 signatory states and the documents of adhesion of 31 adhering states, by a single formality, made the treaty effective between the 46 countries of the world. No ceremony in history has ever served in a given moment to bind so many of the Governments of the world to a specific standard of conduct.

In addition to the 46 states placing themselves under the treaty on that date, 16 more countries had then signified their intention to adhere to the treaty, which was in various stages of legal adoption by them.

By the treaty, the contracting parties renounce war as an instrument of national policy in their mutual relations, condemn recourse to war as a means of solving international controversies, and agree that the settlement of all disputes of whatsoever kind "which may arise among them" — which includes disputes arising between them — shall never be sought except by pacific means. The treaty

contains no provision for its abrogation or for the withdrawal of any party. Its engagements must, therefore, be regarded as a permanent contract, without time limit among and between the contracting parties. As an operative contract, the treaty addresses itself to national policy, and it forecasts an obligation of the contracting parties to provide adequate machinery to realize the agreement never to seek the settlement or solution of disputes by other than pacific methods.

The treaty had its origin in a proposal for a bilateral treaty made by the French to the United States Government on June 10, 1927. A response to that suggestion proposing a general multilateral engagement was not made until December 28, 1927. The active negotiations for the treaty, which on July 24, 1929, entered into force for 46 nations, required 242 days from the first American note to the signing of the document at Paris on August 27, 1928. From the signing to the entrance in force an additional 331 days elapsed. From the original proposal to entrance into force, the whole matter was completed within a period of 25½ months.

As international affairs go, the speed of a negotiation of such magnitude is a significant feature of it. This circumstance directs attention to the conditions which had come to exist in world polity at the time when the negotiation was undertaken and which created a foundation from which it proceeded.

Until just before the outbreak of the World War, no legal limitation upon a state's resorting to war existed, except the 1907 Hague convention limiting the employment of force for the recovery of contract debts.[1] In 1913, Secretary of State William J. Bryan of the United States began the negotiation of a series of treaties providing for the investigation and report by an international commission of disputes not actually submitted to arbitration. By these

[1] The convention was ratified or adhered to by Austria-Hungary, China, Denmark, France, Germany, Great Britain, Guatemala, Haiti, Japan, Liberia, Mexico, Netherlands, Nicaragua, Norway, Panama, Portugal, Russia, Salvador, Spain, United States.

treaties, of which 31 were signed and 21 came into force, the pairs of states parties to them "agree not to declare war or begin hostilities during such investigation and report." Further, by these treaties a period of one year was allowed for the preparation of the report. The "cooling-off period" thus provided for had a profound effect upon consideration of peace problems immediately preceding and during the World War.

This principle of a period in which parties were not at liberty to resort to war was incorporated into the machinery of the Covenant of the League of Nations for the pacific settlement of international disputes. This is expressed in Art. 12 of the Covenant by which Members of the League agree that they will submit any dispute likely to lead to a rupture to some form of pacific settlement — arbitration, judicial settlement or inquiry by the Council. They further agree "in no case to resort to war until three months after" the result of such submission is known. It is provided that a report by the Council may be expected within six months after the submission of the dispute. No precise time is specified for the award of the arbitrators or the judicial decision. The Covenant of the League of Nations for the states Members of it, therefore, had the effect of renouncing war for a minimum period of nine months.[1]

Members of the League agree "that they will not resort to war against a Member of the League which complies" with an arbitral award or judicial decision. If a matter is submitted to the Council, they agree that they will not go to war with any party to a dispute which complies with the recommendations of the Council's report, provided the report itself was unanimously agreed to by the Members of the Council other than the representatives of one or more parties to the dispute.

As a result of the Covenant of the League of Nations

[1] As a matter of fact, the periods have not proved limitative in practice. The article of the Covenant refers to the dispute as submitted. In the very elastic procedure of the Council, the disputes before it have invariably assumed various aspects, which have been successively examined. Thus, Lithuanian-Polish relations have been before the Council literally for years at a time.

coming into force, therefore, its Members — now 54 in number — agree not to resort to war:

(*a*) While a dispute is being considered by a chosen method of pacific settlement;

(*b*) Against a party which has complied with the conclusions of the chosen method of pacific settlement.

The fulfilment of these agreements reduces the possibility of a Member state employing war as an instrument of national policy.

The makers of the Covenant further provided that the agreement to submit disputes to pacific settlement and to abide by the decision of the forum chosen were a matter of general concern. Art. 16, referring to the stipulations above mentioned, states: "Should any Member of the League resort to war in disregard of its covenants under Arts. 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League." This provision assumes a collective interest in the application by Member states of methods of pacific settlement to their international relations. In consequence of the "act of war" evidenced by disregard of the agreements in the three articles, the other states "undertake immediately" to subject the recalcitrant to a complete severance of trade and intercourse with other nations. It is contemplated that armed forces might be required to render this provision effective.

The Problem of Sanctions

These sanctions have attracted a great deal of attention inside and outside of the League. In 1920, the First Assembly [1] adopted a resolution to study what was then called the "economic weapon" of the League, and in June, 1921, the Council appointed the International Blockade Commission [2] for this purpose. The meetings of this commission were reported to the Second Assembly, which passed a series of interpretative resolutions intended

[1] *Records of the First Assembly, Plenary Meetings*, p. 407.

[2] *Official Journal*, II, p. 435.

to serve as a guide to states called upon to put Art. 16 into effect.[1]

By these resolutions, the Assembly determined that "the unilateral action of the defaulting state can not create a state of war," so that Members of the League were entitled to resort to acts of war against the defaulter without creating that legal condition. This situation is obviously different in character from any previously recognized methods of hostile redress. The resolutions declared that it was for each Member of the League to decide "whether a breach of the Covenant has been committed," calling attention to the fact that Members can not neglect duties under the Covenant "without breach of their treaty obligations." Any Member of the League can secure the urgent convening of the Council to examine an alleged breach of Art. 16, and its decision inevitably would be the basis upon which Member states would determine their own duties in the premises. The Council, in reaching its decision, shall summon the representatives of the parties to the conflict and of states (1) which are neighbors of the defaulting Member, (2) which normally maintain close economic relations with it or (3) whose cooperation would be especially valuable. An amendment to Art. 16, recommended at the same time, stipulated that the votes of Members of the League alleged to have resorted to war and of Members against whom such action was directed should not be counted in the Council vote. Determination of a breach of the Covenant would be accompanied by a statement of reasons and an invitation to Members of the League to take action. Care is taken in the resolutions to discourage drastic action at the outset, when the interruption of diplomatic relations might be limited to the withdrawal of the heads of missions, while consular relations might be maintained. "In cases of prolonged application of economic pressure, measures of increasing stringency may be taken." [2]

[1] *Records of the Second Assembly, Plenary Meetings*, p. 450, 803; *Third Committee*, p. 380.

[2] *Official Journal*, VIII, p. 840.

The Second Assembly's study of the problem inherent in implementing Art. 16 resulted in the formulation of four amendments to the article. Three of these consisted of paragraphs to be inserted in the article following the first paragraph. These made the functions of the Council in determining a breach of the Covenant more precise.[1]

Another amendment has both a prior and subsequent history. By the original article, Members of the League undertake "the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking state." In the long and bitter controversy respecting the treaty of Versailles in the Senate of the United States in 1919 and 1920, the substance of Art. 16 was not at all called into question. The critical scrutiny to which the entire Covenant was subjected, however, directed the attention of the Senate to the fact that the phrase quoted above might literally be construed to enjoin a state to prohibit intercourse between its own nationals and nationals of the covenant-breaking state resident outside of that state.[2]

It was decided by the Second Assembly that this language required clarification in both parts of the defining clause of the article. By the amendment, the prohibition of inter-

[1] The amendments read:

"It is for the Council to give an opinion whether or not a breach of the Covenant has taken place. In deliberations on this question in the Council, the votes of Members of the League alleged to have resorted to war and of Members against whom such action was directed shall not be counted. (30 ratifications, 8 signatures.)

"The Council will notify to all Members of the League the date which it recommends for the application of the economic pressure under this article. (30 ratifications, 8 signatures.)

"Nevertheless, the Council may, in the case of particular Members, postpone the coming into force of any of these measures for a specified period where it is satisfied that such a postponement will facilitate the attainment of the object of the measures referred to in the preceding paragraph, or that it is necessary in order to minimize the loss and inconvenience which will be caused to such Members." (29 ratifications, 10 signatures.)

[2] The reservation as brought to a vote in resolutions of ratification on November 19, 1919, and on March 19, 1920, read:

"11. The United States reserves the right to permit, in its discretion, the nationals of a covenant-breaking state, as defined in Art. 16 of the Covenant of the League of Nations, residing within the United States or in countries other than such covenant-breaking state, to continue their commercial, financial and personal relations with the nationals of the United States."

course was to run "between persons residing in their territory and persons residing in the territory of the covenant-breaking state." [1] Subsequently, it was felt that this language was not sufficiently adequate, and the amendment of October 4, 1921, was further amended on September 27, 1924, so as to effect a prohibition of intercourse "at least between persons resident within their territories and persons resident within the territory of the covenant-breaking state and, if they deem it expedient, also between their nationals and the nationals of the covenant-breaking state." [2]

While none of these amendments has come into force, the first of the series of resolutions of the Assembly declared that both the resolutions and the proposals for amendment were to "constitute rules for guidance which the Assembly recommends, as a provisional measure, to the Council and to the Members of the League." [3] The Council on January 10, 1922,[4] informed Members of the League that it "will certainly be guided by the rules recommended by the Assembly, so far as they relate to the Council's action."

When the Preparatory Commission for the Disarmament Conference met in May, 1926, it had before it a series of questions of which two related to Art. 16. One concerned "the degree of security which, in the event of aggression, a state could receive under the provisions of the Covenant." The other raised the question whether reduction of armament can be promoted "by examining possible means for insuring that the mutual assistance, economic and military, contemplated in Art. 16 of the Covenant shall be brought quickly into operation." The result of the raising of these questions was an extensive study of their implications and an excellent and elaborate report to the Preparatory Com-

[1] When this amendment was retired it had been ratified by 26 states, and 14 in addition had signed it.

[2] Five ratifications, 11 signatures.

[3] *Reports and Resolutions on the Subject of Art. 16 of the Covenant*, p. 42 (A. 14. 1927. V. 15); *Official Journal*, VIII, p. 840.

[4] *Official Journal*, III, p. 121; *Reports and Resolutions*, p. 44.

mission.[1] In consequence, the Council on December 8, 1926, requested the Secretary-General:

(*a*) To collect all the documentation regarding the economic and financial relations involved in the application of Art. 16; [2]

(*b*) To ask the Financial Committee to develop "a common scheme of financial assistance in support of a state which is the victim of aggression; " [3]

(*c*) To study the legal position due to "enforcing in time of peace the measures of economic pressure indicated in Art. 16, particularly by a maritime blockade;"

(*d*) To study "legislation calculated to make it easier for states to apply economic sanctions." [4]

Respecting the problem of a maritime blockade, the report [5] from the Secretariat examined the conditions existing as to a covenant-breaking state, as to Members of the League in general and as to third states. The measures of coercion contemplated in Art. 16 "did not legally establish a relation of war between the states concerned." If they are not intended to create that condition and are not regarded by the state to which they are applied as creating a state of war, it is pointed out that the aggressor state would not certainly consider the application of sanctions as a *casus belli* and that other Members of the League would each maintain the faculty of not considering itself formally at war.

The position as regards third states was very carefully analyzed, since with regard to a state not a Member of

[1] *Reports and Resolutions*, p. 60.

[2] This is printed in the *Reports and Resolutions* as cited.

[3] The scheme, which was prepared by the Financial Committee, was considered by the 1928 Assembly. It involves the deposit by Members of the League of general guaranty bonds to be exchanged for specific guaranty bonds in the event of a state requiring assistance. These specific guaranty bonds would serve as security for an international loan in favor of the state which was the victim of aggression and which required assistance. For the scheme see Document A. 10. 1929. II. 14. For replies of Estonia, India, Poland, Siam, see *Official Journal*, VIII, p. 797, 1549; IX, p. 328.

[4] For replies of South Africa, Australia, Belgium, British Government, China, Cuba, Czechoslovakia, Denmark, Estonia, Finland, France, Greece, India, Irish Free State, Italy, Luxemburg, Norway, New Zealand, Netherlands, Nicaragua, Salvador, Siam, Sweden, Switzerland, Germany, Austria, Poland, see *Official Journal*, VIII, p. 694, 968, 1042, 1548; IX, p. 327.

[5] *Reports and Resolutions*, p. 83; *Official Journal*, VIII, p. 834.

the League, "the most delicate legal questions will arise in connection with application of economic sanctions, particularly if they are applied without declaration of a state of war against the aggressor state." The various conditions which might arise are identified, stress being laid upon the possibility that non-Members of the League might "recognize such adaptation of the traditional rules of international law as experience may show them to be necessary to render the application of Art. 16 effective," even if their active cooperation is not secured. It is pointed out "that, in acting under Art. 16, the Members of the League are not asserting or defending their own selfish interests but, at the cost of loss and inconvenience to themselves, are carrying out a treaty obligation designed to maintain the peace of the world by enforcing pacific settlement of international disputes," in the success of which "the peaceful third state may itself be considered to have an interest."

Respecting measures taken outside the territorial jurisdiction of Members of the League, it is pointed out that third states might in fact "acquiesce in the application of the pacific blockade to their own ships." Historically, refusal to recognize a pacific blockade has led to the formal declaration of a state of war. "A third state would incur a great moral responsibility," if its policy should force this development. That responsibility and an insistence upon the rights of a neutral would be emphasized by the fact that the Members of the League would make clear "at all times their willingness to secure immediate peaceful settlement of the questions at issue."

It can be seen from these attempts that Art. 16 has to no considerable extent been as yet defined. On the other hand, no occasion for its application has occurred.

The Forestalling of War

The tendency among Members of the League of Nations has been toward the conclusion of the memorandum of the Committee on Arbitration and Security, that, "in order

to facilitate the application of Art. 16 in case of need, it is necessary to make a full and conscientious use of the other articles of the Covenant and especially of Art. 11." [1]

Art. 11 contains the most far-reaching possibilities for the securing of peace of any article in the Covenant. The provisions of Arts. 12–16 indicate methods for settling international disputes and for insuring their application. Art. 11 declares:

(1) That it is "the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends"; and

(2) That "any war or threat of war, whether immediately affecting any Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations."

The study of the peace possibilities of these provisions by the Preparatory Commission for the Disarmament Conference and the Committee of the Council "showed that Art. 11 afforded many more resources for the settlement of disputes and the assurance of peace than had at first been thought." [2] A resolution of the Ninth Assembly defined the position as follows:

. . . That the action to be taken by the Council under Art. 11 and other articles of the Covenant in the case of a conflict will provide it with important elements of appreciation likely to facilitate the determination of the aggressor in the event of war breaking out in spite of every effort;

Considers that the study of Art. 11 . . . brings into prominence the fact that the League's first task is to forestall war, and

[1] *Documents of the Preparatory Commission for the Disarmament Conference*, Series VI, p. 158 (C. 165. M. 50. 1928. IX. 6). (It is also C. A. S. 10, par. 213.)

[2] Louis de Brouckère, Representative of Belgium, *Records of the Eighth Session of the Assembly, Plenary Meetings*, p. 158.

that in all cases of armed conflict or of threats of armed conflict, of whatever nature, it must take action to prevent hostilities or to stop hostilities which have already begun.

Two other phases of development have had a bearing upon securing a practical definition of Arts. 11 and 16 of the Covenant. The attempts to work out a definition of aggression have not succeeded, but there is general agreement among Member states of the League that an instance of aggression can be identified if it occurs, even though it eludes expression in a definition fixed in advance.

The German Government in 1927 felt that the means for preventing war could be strengthened. Its delegation to the Committee on Arbitration and Security proposed that a special treaty be drafted to prevent prejudicial acts occurring while a dispute was under consideration by the Council, in order to discourage the breaking out of hostilities or the aggravation of conditions of tension between the disputants. A model treaty to this effect was drawn up by the third committee of the Ninth Assembly and recommended for consideration by Members and non-Members of the League in a resolution of September 20, 1928.[1]

Previously the Council had on June 7, 1928, taken a decision in the same direction. It directed the Secretary-General to request any states bringing a matter before the Council to conform to a practice phrased in the following terms:[2]

The Council considers that, when a question has been submitted for its examination, it is extremely desirable that the Governments concerned should take whatever steps may be necessary or useful to prevent anything occurring in the respective territories which might prejudice the examination or settlement of the question by the Council.

[1] Rumania has announced its readiness to conclude the treaty with Members or non-Members of the League. For the text, see *Resolutions and Recommendations of the Assembly*, . . . 1928, p. 58 (*Official Journal*, Spec. Supp. No. 63).

[2] *Official Journal*, IX, p. 909–910.

Aggressive War Called a Crime

The change of mind which has taken place with respect to the power of states to go to war can be best indicated by a brief review of the different approaches to the problem which the states have made. As the majority of countries are Members of the League of Nations, the obligations of Arts. 11 and 16, just described, have exercised a continuous influence in these developments. Under Art. 8 of their Covenant, Members of the League recognize "that the maintenance of peace requires the reduction of armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations." The First Assembly in 1920 was unwilling to leave the determination of an agreement under this provision to military and naval experts. It, therefore, called for a temporary commission "composed of persons possessing the requisite competence in matters of a political, social and economic nature to prepare proposals." [1]

The studies of this commission resulted in the draft of a treaty of mutual assistance, which was intended to facilitate the application of Arts. 10 and 16 of the Covenant. Art. 1 [2] of this proposal declared "that aggressive war is an international crime," and the parties to it would "undertake that no one of them will be guilty of its commission." This proposal was worked out in much detail and attached to it was a commentary dealing with the definition of what constitutes aggression.

The draft treaty was submitted to Governments for their consideration and for the communication of their views concerning it. Altogether, 29 states replied.[3] Of these, about half were in favor of accepting the text. The United States in its reply on the draft treaty stated that "it is quite

[1] *Resolutions Adopted by the Assembly . . .* 1920, p. 31 (*Official Journal*, Spec. Supp. No. 5).

[2] *Records of the Fourth Assembly, Plenary Meetings*, p. 403 (*Official Journal*, Spec. Supp. No. 13).

[3] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Third Committee*, p. 129.

apparent that its fundamental principle is to provide guaranties of mutual assistance and to establish the competency of the Council of the League of Nations with respect to the decisions contemplated, and, in view of the constitutional organization of this Government and of the fact that the United States is not a Member of the League of Nations, this Government would find it impossible to give its adherence." In general, the objections to the text revolved around the difficulty of determining what action would constitute aggression; the feeling of some states that they would be called upon to bear the brunt of any action contemplated, and the feeling of others that their security did not require special provisions for its insurance.

In July–August, 1924, Premiers Edouard Herriot of France and J. Ramsay MacDonald of Great Britain had taken an important part in bringing into existence the reparation régime which is popularly known as the Dawes Plan. One of the features of the agreements which brought about that result was the application of arbitration to all questions which might develop into a dispute.[1] The two premiers were impressed with the success they had thus achieved. In eloquent addresses in the Fifth Assembly of the League, which both of them attended as heads of their delegations, they analyzed the situation and each emphasized the efficacies of arbitration, in the general sense, as a means of insuring the conditions of justice which would produce security and make reduction of armament possible.

[1] The circumstances resulting in the adoption of arbitration at 19 critical points in the reparation settlement are interesting. M. Herriot was at the British Prime Minister's country place, Chequers Court, June 21–22, 1924. They discussed the outstanding difficulties. M. Herriot asked whether the determination of a German default would be by majority or unanimously. "It is difficult," said he, "to admit that the vote of a single nation, less interested than others in reparation, might block everything." To his British interlocutor the argument cut both ways, since a Government could not be expected to support a decision which it had voted against. Finally, the Englishman concluded: "We could say in advance that, if difficulties occur, we shall find their solution by submitting them to an international court which would determine in accordance with its own rules whether it would decide by majority or not. The effect would be the same as submitting the affair to arbitration. If the decision is against me, I nevertheless yield. That is especially so if the court has a strictly judicial character, but a simple majority by a political organ could not be accepted." The application of arbitration thus served a very practical purpose. (For the full conversation see "Une Nuit Chez Cromwell" par Georges Suarez. *La Revue de France*, January 15, 1929.)

The substance of their addresses was that the full possibilities of the obligations of the Covenant "in relation to the guaranties of security which a resort to arbitration and a reduction of armaments may require" had not been exhausted. On September 6, 1924, the Fifth Assembly adopted a resolution to refer the triple problem of "arbitration, security and disarmament" to two of its committees with the double purpose of strengthening "the solidarity and security of the nations of the world by settling by pacific means all disputes which may arise between states" and of making possible an international conference upon armament at the earliest possible moment.

"Arbitration, Security, Reduction of Armament"

The result of the deliberations of the 51 states represented in that Assembly was the adoption on October 2, 1924, of the text of the Protocol for the Pacific Settlement of International Disputes,[1] the acceptance of which the Assembly recommended to all Members of the League.

The Geneva protocol was intended to "close the fissures in the Covenant." Technically, Arts. 12, 13 and 15 of the Covenant, which provided for pacific settlement of international disputes, did not fully exclude war. By Art. 12, Members agree to submit any dispute likely to lead to a rupture to arbitration, judicial settlement or inquiry by the Council, and they agree not to resort to war until three months after the result of the reference is known. As six months is suggested as a period within which a report shall be made, there is no violation of it in resorting to war after a total conceivable period of nine months. This condition is even more precise with respect to inquiry by the Council — which is substantially a procedure of conciliation — by the provisions of Art. 15. Pars. 4, 5, 6 and 7 of this article define possible conditions of its failure. If the Council does not succeed in settling a dispute, but the report is unanimously agreed to by all Members of the

[1] *Records of the Fifth Assembly, Plenary Meetings*, p. 498.

Council, except one or more representatives of the parties to the dispute, the Members agree not to go to war with a disputant which complies with the recommendations of the report. The publication of the report is mandatory, and the provisions contemplate that public knowledge of it will have a distinctly mollifying effect. If the dispute does not result in such a unanimous report "the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice." Under these provisions what may be termed a legal war is conceivable. The states concerned did not in 1924 have in mind in that connection the provision of Art. 11 by which "the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations" in the face of "any war or threat of war."

The protocol laid down a detailed procedure by which any dispute, which exceeded the scope of these provisions, might still be subject to methods of solution.

Par. 8 of Art. 15 provides that any question found by the Council to fall within the "domestic jurisdiction" of a Member shall not be dealt with by the Council. Such a question might nevertheless be the cause of very tense relations between states. The protocol attempted to close this "fissure," so far as it related to a dispute as distinct from the substance of the difference. If it were claimed that a matter was solely within the domestic jurisdiction of a state, the Permanent Court of International Justice might be asked for an opinion. If the Court held that the matter was one of domestic jurisdiction, this decision was not to prevent consideration of the "situation" under Art. 11 of the Covenant.

The treaty of mutual assistance had been criticized because it had not taken into account the available methods of pacific settlement. Its Art. 1 had referred to pacific settlement as a test of the aggressive character of a war only in terms of the Covenant provisions already described. The Geneva protocol sought to establish a criterion of

aggression on the basis of a draft submitted to the League by a group of Americans.[1] The protocol did not attempt to define an aggressor, but it set up criteria for identifying one. The presumptions applicable to this determination were (1) refusal to submit a dispute to the procedure of pacific settlement as defined in the Covenant, (2) violation of provisional measures enjoined by the Council while the dispute was under consideration, or (3) refusal to accept an armistice.

The protocol sought to give definiteness to the conditions under which Art. 16 of the Covenant should be applied. The rules for the determination of aggression were regarded as affording a basis for creating an obligation to apply sanctions. Signatory states were to agree that the standards laid down in the protocol would obligate them to apply the provisions of Art. 16. As a consequence, the protocol dealt in some detail with the methods of bringing that article into operation under the given conditions.

The Geneva protocol was a landmark in the development of postwar policy. Its production and passage by the Fifth Assembly of the League in 1924 was accompanied by an unwonted enthusiasm on the part of the responsible statesmen concerned with it. Having been worked out and accepted by the representatives of 51 states, it was not unreasonable to expect its general acceptance by the home Governments, from which the Geneva delegates had their instructions. The convening of a disarmament conference was conditioned upon the entrance of the protocol into force. Preparations for such a conference were immediately begun.

Geneva Protocol Fails

The protocol had been immediately signed on behalf of 18 states, and it was planned at the meeting of the Council in December, 1924, to push forward the program based upon it. In Great Britain, the MacDonald cabinet was suc-

[1] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Third Committee*, p. 169 (*Official Journal*, Spec. Supp. No. 26).

ceeded by the Baldwin cabinet on November 4, 1924. At the Council meeting the following month the British Government requested the postponement of the discussion to a later session "when they will have been able to give to it the close attention which its great importance necessitates." [1]

On March 12, 1925, Sir Austen Chamberlain read a statement to the Council declining to accept the protocol.[2] In general, it was stated that the British Government, the self-governing dominions and India "see insuperable objections to signing and ratifying the protocol in its present shape." This statement was based upon opposition in two respects. The British Government was not convinced that it was a defect in the Covenant "that international differences might conceivably take a form for which the peace-preserving machinery provided no specific remedy." It further objected to "sharpening the sanctions."

Respecting this point, Sir Austen Chamberlain mentioned the fact that the United States was bound neither by the Covenant nor the protocol and that the original conception of the economic sanction, "in the most improbable event of its use being necessary," was completely changed "by the mere existence of powerful economic communities outside the limits of the League." There was no presumption under these circumstances that the offending state "would be crushed or even that it would suffer most." The effect of the protocol upon the mobility of sea forces was especially dealt with.

Sir Austen Chamberlain finally criticized the protocol because it was all-inclusive. It was the "extreme cases" where states felt insecurity which created "the brooding fears that keep huge armaments in being," and which "have little relation to the ordinary misunderstandings inseparable from international (as from social) life." The British Government concluded "that the best way of dealing with the situation is, with the cooperation of the League, to

[1] *Official Journal*, VI, p. 128.
[2] *Ibid.*, p. 446.

supplement the Covenant by making special arrangements in order to meet special needs." These arrangements would be purely defensive in character, would be framed in the spirit of the Covenant, would be operated in harmony with the League and under its guidance, and would be between the nations most immediately concerned and whose differences might lead to a renewal of strife.

The British pronouncement created a deep impression, without inspiring general agreement. Nevertheless, it was recognized that the opposition of the British Empire and other states to "stiffening the Covenant" made the realization of the protocol itself impossible.

Effects of Locarno

The month before the Chamberlain statement was made, a proposal along the lines of its conclusion had been made by Germany. On February 9, 1925, Herr Stresemann had proposed a pact by which the states interested in the Rhine should enter into a solemn obligation not to wage war against each other and should make this engagement in connection with a comprehensive arbitration treaty. This proposal culminated in the agreements initialed at Locarno on October 16, 1925, which entered into force on September 14, 1926. At the time, the treaty of mutual guaranty of the Rhine demilitarized zone attracted the most attention. In subsequent developments, the provisions for pacific settlement have been most fruitful.

The Locarno Conference was intended "to bring about a moral relaxation of the tension" between the parties concerned. The agreements consisted of a treaty of mutual guaranty between Germany, Belgium, France, Great Britain and Italy, by which the demilitarized zone of the Rhine is guaranteed and Germany and Belgium and Germany and France "undertake that they will in no case attack or invade each other or resort to war against each other," except for "exercise of the right of legitimate defense" or action in pursuance of the Covenant of the League of Nations. There are arbitration conventions between

Germany and Belgium and Germany and France and arbitration treaties between Germany and Poland and Germany and Czechoslovakia.

Three other documents completed the Locarno agreements. One was a collective note to Germany in which the other parties stated that Art. 16 of the Covenant of the League "must be understood to mean that each state Member of the League is bound to cooperate loyally and effectually in support of the Covenant and in resistance to any act of aggression to an extent which is compatible with its military situation and takes its geographical position into account." The other two documents were identic treaties of France with Poland and Czechoslovakia respectively, by which the parties agree that, if either of them should suffer from a failure to observe the undertakings arrived at with Germany, they reciprocally "undertake to lend each other immediately aid and assistance, if such a failure is accompanied by an unprovoked recourse to arms."

The significance of the Locarno agreements was that the historical advantage of the Rhine as a "spring-board" for military attack was foresworn, the parties chiefly concerned placing themselves under the obligation of leaving all their disputes to pacific settlement, and their engagements being guaranteed by themselves and also by Great Britain and Italy. In addition, Germany's neighbors on the east, Czechoslovakia and Poland, entered into mutual engagements with Germany to settle all their differences pacifically and, with the approval of Germany, accepted reciprocal engagements with France to maintain the general peace.

All the parties to these agreements were keenly aware of the extent to which they were calculated to eliminate the tension which had existed. All of them attributed this result to the application of pacific settlement to the problem, within the framework of the League of Nations. It is that element in the settlement which became the basis of development.

The insecurity felt on both sides of the Rhine emphasized the Locarno agreements as the model for solving any such problem that might exist elsewhere. The treaty of mutual guaranty in Art. 1 provides for the maintenance of the demilitarized zone, without implying that it is liable to attack from either side. By Art. 2, the border states — Germany and Belgium and Germany and France — "mutually undertake that they will in no case attack or invade each other or resort to war against each other." By Art. 3, and in view of the foregoing undertaking, the parties "undertake to settle by peaceful means . . . all questions of every kind which may arise between them and which it may not be possible to settle by the normal methods of diplomacy." The arbitration conventions and treaties specify that any question with regard to which the parties are in conflict as to their respective rights shall be submitted to judicial decision and that all other questions shall go to a conciliation commission.

The success of the Locarno agreements was finally clinched by the admission of Germany into the League of Nations on September 8, 1926, which act had as one of its consequences the bringing of the agreements into force. Even before that date, a policy of appeasement had been in vogue both in Paris and Berlin,[1] and the spectacle of the

[1] During the Seventh Assembly of the League of Nations, M. Briand and Herr Stresemann, the French and German foreign ministers, went to the little town of Thoiry on September 17, 1926, for a luncheon discussion. "It was necessary," M. Briand has said, "to envisage all the problems existing between the two countries; to bring ourselves to draw from the Locarno pact its full possibilities; to dissipate the dangerous points of friction between the two countries." As to the security of France, M. Briand told Herr Stresemann, "so long as you refuse to bring about certain conditions in the field of disarmament, our conversations will be fruitless. Secure, then, that immediately the recommendations of the Conference of Ambassadors should be put into effect." M. Briand adds: "M. Stresemann replied that he would do it; and he did it."

Herr Stresemann spoke of the occupation of the Rhineland. M. Briand recalled that the Locarno agreements were within the framework of the treaty of Versailles. Herr Stresemann replied that he would seek from experts the means for Germany to free itself in advance of the treaty stipulations either by anticipated payments or by commercialization of the reparation debts.

In 1928, M. Briand and Chancellor Müeller met at Geneva. The latter asserted, "Germany can require the immediate evacuation of the Rhineland. That is my legal position." France denied this, but its spokesman added: "Shift your ground a bit; give up the legal plan; proceed with a political plan. It will perhaps be the means of finding a solution." (Speech in the French Chamber, Dec. 4, 1928.)

two traditional enemies reaching agreement and concerting policy without dependence upon their military potentialities attracted world-wide attention. Governments throughout the world were quick to realize the possibilities of what amounted to a new technique: The specific settlement of political differences, insured by all-inclusive pacific settlement arrangements to apply to their future difficulties.

Growth of Pacific Settlement

The Assembly of the League in September, 1925, had called for an examination of pacific settlement treaties in order to determine "the progress in general security brought about by such agreements." This *Systematic Survey* [1] was available for consideration by the Assembly in 1926 and the delegates of the states found in the texts no formula superior to that of Locarno. The Seventh Assembly, therefore, asserted in a resolution "that the general ideas embodied in the clauses of the treaties of Locarno, whereby provision is made for conciliation and arbitration and for security by the mutual guaranteeing of states against any unprovoked aggression, may well be accepted among the fundamental rules which should govern the foreign policy of every civilized nation."

The effect of the Geneva protocol on bilateral arrangements for pacific settlement may be seen from the fact that only two such treaties were signed in 1922, nine in 1923, 18 in 1924; but there were 30 in 1925, 35 in 1926, 20 in 1927 and 48 in 1928. These treaties were progressively becoming more important politically by reason of the fact that many of them were being made with the definite object of insuring peace in "the most sensitive regions of Europe." Coupled with continuous exploration of the problems involved in solving the subjective problem of security and in seeking technical formulas to permit the reduction of armament, the year between the League As-

[1] A second edition issued in 1928 (Document C. 653. M. 216. 1927. V. 29) contains a complete analysis of all treaties registered up to December 15, 1927.

semblies of September, 1926, and of September, 1927, saw increasing agreement as to the necessity of insisting upon the development of pacific settlement as a means of peace.

The practical value of all-inclusive arbitration was further emphasized because of its obvious effect upon the subjective feeling of security, upon which the possibility of reducing armament was admitted to depend.

Various other developments had contributed to the main current. The value of the commission of inquiry as a method of considering disputes not submitted to arbitration and the provision of the Bryan treaties that parties to them should not go to war until the commission had reported had been embodied in Art. 12 of the League Covenant. In that article, however, the procedure of inquiry was assigned to the Council. During the period of the World War, there had been advocated — notably by the American League to Enforce Peace — a commission whose functions would extend beyond those of inquiry. The conciliation commission of the various private projects also assigned to that body the duty of including in its report recommendations as to how the dispute could be settled. Long before the war was over, arbitration and conciliation, which involved both inquiry and recommendation, were regarded as essentially complementary methods of pacific settlement.

In 1920, the Scandinavian countries, noticing that the Covenant contemplated arbitration through bilateral arrangements and provided for a judicial jurisdiction in the Permanent Court of International Justice, proposed an amendment which would set up a central conciliation commission under the Covenant. This proposal was studied, but it was felt that it was unnecessary to create such a body. Nevertheless on September 22, 1922, the Third Assembly of the League adopted a resolution recommending the Members of the League "to conclude conventions with the object of laying their disputes before conciliation commissions formed by themselves," and setting forth the general stipulations which should be embodied in such con-

ventions.[1] As a result of this resolution, some 30 such conventions have been made and the commissions appointed under them are reported to the Secretariat of the League.[2]

The Place of the Permanent Court

An essential element of the postwar system of pacific settlement is the Permanent Court of International Justice. Such a court had been desired for many years. Establishment of an international judicial body had failed at the Second Hague Conference in 1907 owing to inability to agree upon a method of selecting a restricted number of judges. Realization of the task was assigned to the Council of the League of Nations, and a solution of all primary problems was found in the Statute elaborated in 1920.[3] The Court had been functioning since 1922 and from year to year was establishing its fundamental place in the scheme of pacific settlement. Its general influence lies in several directions:

(1) It affords the world the spectacle of states seeking and receiving legal judgments;

(2) It determines points of law, in the form of advisory opinions, in connection with the settlement of disputes under the conciliatory procedure of the League of Nations;

(3) Its existence and operation emphasize the possibility of the most developed form of pacific settlement;

(4) Its work results in a positive body of adjudicated international law;

(5) By accepting the so-called optional clause, states may bind themselves to accept the jurisdiction of the Court for what are recognized to be legal questions.

Art. 13 of the Covenant of the League declares disputes concerning four types of question "to be among those which are generally suitable for submission to arbitration or

[1] *Resolutions and Recommendations Adopted by the Assembly*, 1922, p. 9 (*Official Journal*, Spec. Supp. No. 9).

[2] *Official Journal*, VI, p. 1684; VII, p. 378, 660, 1139, 1529, 1644; VIII, p. 625, 1043, 1552, 1652; IX, p. 295, 707, 797, 1142, 1952.

[3] The Committee of Jurists meeting March 10–19, 1929, recommended a revision as to many details. See *The World Court*, 1922–1929, Manley O. Hudson, World Peace Foundation, 1929, p. 140.

judicial settlement." The Council was instructed by Art. 14 of the Covenant to "formulate and submit to the Members of the League for adoption plans for the establishment" of a Court. The Council intrusted this task to an Advisory Committee of Jurists, who employed the language of Art. 13 to define the jurisdiction of the Court. However, the states represented in the 1920 Assembly, which perfected the Court Statute, felt unable to agree to so wide and definite a jurisdiction. In Art. 36 of the Statute, therefore, it is set down that "the jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force." Nevertheless, they were not content to leave the jurisdiction restrictive, but made it possible for any state accepting the Statute to sign the so-called optional clause by which they declare that they accept "as compulsory *ipso facto* and without special agreement, in relation to any other Member or state accepting the same obligation, the jurisdiction in all or any of the classes of legal disputes concerning:

"(*a*) The interpretation of a treaty;
"(*b*) Any question of international law;
"(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation;
"(*d*) The nature or extent of the reparation to be made for the breach of an international obligation."

States parties to the Court are determined by their signing a protocol of signature, to which 52 have subscribed and which has been ratified by 42. In addition, the Court is open as of right or by courtesy to 17 others. The optional clause has been signed by 29 states and is reciprocally binding upon 17.[1] Of the others, 11 have not completed all formalities, while in the case of two a stipulated time limit has expired without renewal having been made.

[1] The states are Abyssinia, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Haiti, Netherlands, Norway, Panama, Portugal, Spain, Sweden, Switzerland and Uruguay.

The optional clause is regarded as the principal means for realizing the compulsory jurisdiction of the Court. Its acceptance by states parties to the Geneva protocol was contemplated as a part of its thoroughgoing provisions for pacific settlement. Since 1924, the general acceptance of the clause has been canvassed several times, and the Ninth Assembly of the League adopted a resolution in which it recommended states to consider whether they could accede to the clause "subject to appropriate reservations limiting the extent of their commitments."

Compulsory jurisdiction is "held to exist when the Court may be made cognizant of a suit by unilateral application under an international agreement." [1] Another form of it is expressed by treaties, bilateral or multilateral. All multilateral treaties and many bilateral treaties now being made contain a clause providing that a dispute involving the "interpretation or application" of the treaty shall be left to the Permanent Court. As a consequence of this clause, questions of the widest variety, many of them not previously cognizable by legal processes at all, have been brought within the scope of the Court's jurisdiction. Altogether, 250 such treaties had been filed with the Court up to June 15, 1928.[2]

Aggression and Pacific Settlement

The League's Preparatory Commission for the Disarmament Conference in its Third Session, March 21–April 26, 1927, had produced a skeleton first draft of a disarmament convention. This "progress achieved in the technical sphere" made the Members of the League "anxious to bring about the political conditions calculated to assure the success of the work of disarmament." The Eighth Assembly in September, 1927, recommended for this purpose the progressive extension of arbitration so as to provide the essential mutual confidence. To this end,

[1] *Publications of the Permanent Court*, Series D, No. 5, p. 15.

[2] *Collection of texts covering the jurisdiction of the Court*, Series D, No. 5; *Third Annual Report*, Series E, No. 3, p. 331, and No. 4, p. 413.

they requested the appointment of a committee to consider "the measures capable of giving the guaranties of arbitration and security necessary to enable them to fix the level of their armaments at the lowest possible figures in an international disarmament agreement." The 49 states represented in that Assembly also emphasized the attitude common to them by passing a resolution which is textually as follows:[1]

The Assembly,

Recognizing the solidarity which unites the community of nations;

Being inspired by a firm desire for the maintenance of general peace;

Being convinced that a war of aggression can never serve as a means of settling international disputes and is, in consequence, an international crime;

Considering that a solemn renunciation of all wars of aggression would tend to create an atmosphere of general confidence calculated to facilitate the progress of the work undertaken with a view to disarmament;

Declares:

(1) That all wars of aggression are, and shall always be, prohibited;

(2) That every pacific means must be employed to settle disputes, of every description, which may arise between states.

The Assembly declares that the states Members of the League are under an obligation to conform to these principles.

The Committee on Arbitration and Security, which was appointed by the Council in fulfilment of the Assembly resolution, had in the foregoing declaration a statement of belief on which to base its work. In three meetings, December 1–3, 1927, February 20–March 7, 1928, and June 27–July 4, 1928,[2] the committee worked out practical projects for the realization of the twin objects of preventing wars

[1] *Resolutions and Recommendations Adopted by the Assembly*, 1927, p. 22 (*Official Journal*, Spec. Supp. No. 53).

[2] Minutes printed in League of Nations documents, 1st session, C. 667. M. 225. 1927. IX. (1928. IX. 2); 2nd session, C. 165. M. 50. 1928. IX. 6; 3rd session, C. 358. M. 112. 1928. IX. 8.

of aggression and of settling all disputes by pacific means. The Third Commission of the Ninth Assembly re-examined these documents, and on September 26, 1928, adopted them and invited "all states, whether Members of the League or not and in so far as their existing agreements did not already achieve this end, to accept obligations" under them "or in such terms as may be deemed appropriate." The Council of the League on the same day [1] directed the submission of the documents to all Members of the League and to Afghanistan, Brazil, Costa Rica, Egypt, Ecuador, Mexico, Turkey, the Soviet Union, and the United States.

General Act and Model Treaties

This submission involved seven draft conventions as follows:

General Act;

Convention a, bilateral convention for the pacific settlement of all international disputes;

Convention b, bilateral convention for judicial settlement, arbitration and conciliation;

Convention c, bilateral conciliation convention;

Treaty D, collective treaty of mutual assistance;

Treaty E, collective treaty of nonaggression;

Treaty F, bilateral treaty of nonaggression.

The fundamental purposes of these documents were to facilitate agreement, to insure the greatest possible similarity of engagement, and to provide a standard for the adoption of agreements for mutual assistance and nonaggression for those states desiring them.

The emphasis of the resolution is upon the General Act, which constitutes a complete and standard set of provisions for conciliation, judicial settlement and arbitration. The other documents are, so far as possible, made up of articles taken from it. In the case of the treaties of mutual assistance and nonaggression, the distinctive formulas are taken from the Locarno treaty of mutual guaranty.

[1] *Official Journal*, IX, p. 1670.

Doubtless, the acceptance of the General Act was made easier by the signing of the general treaty for renunciation of war as an instrument of national policy a month before, but it is nevertheless a proposal of considerable importance. In proposing accession to it by the Belgian Senate, M. Paul Hymans, the minister of foreign affairs, described it as the judicial complement of the pact of Paris. While the pact "condemns war," the act "determines the methods to be taken in order not to have recourse to it." The French Government in recommending accession pointed out that this action involved taking an engagement in blank, since it was "valid toward all states which wished to contract the same obligations." This is diametrically opposed to the previous practice in making arbitration treaties, which are very carefully adjusted to the relations between the contracting parties.

The novelty of a treaty for pacific settlement capable of acceptance "in blank" is, however, explained by the contents of the document. Disputes of every kind between the parties shall be submitted to the procedure of conciliation. Disputes involving "conflict as to their respective rights," which include the legal differences mentioned in Art. 36 of the Statute of the Permanent Court and covered also by its optional clause, are to be submitted by states to the Court or to arbitration. The chief value of the General Act may prove to be its very full and practical details of procedure under each category and its general provisions making all procedure more definite. On the other hand, no state is discouraged from acceding to the General Act because it feels itself under the necessity of making reservations, for Art. 39 provides for accession conditional upon reservations, while Art. 38 contemplates partial accessions by the acceptance of specific chapters. Thus, the General Act is calculated to be a standard form of agreement, with any deviations from its full terms clearly established.

The General Act [1] came into force August 19, 1929,

[1] Text printed at p. 182 [402].

between Sweden (Chaps. I, II and IV) and Belgium by reason of the deposit of accessions in accordance with Art. 44 and for Norway (Chaps. I, II, IV) September 9. Belgium confined its accession to disputes arising after that action and with regard to situations or facts subsequent to it (Art. 39, 2 (*a*)). The Norwegian and Swedish accessions omitted Chap. III, Arbitration, because it affords a form of decision less legal in character than judicial settlement, which is included by accepting Chap. II. The Little Entente members have voted to accede. The French Government recommends accession.[1]

The preoccupation of the Assembly to fix standards of pacific settlement is further illustrated in the group of pacific settlement conventions. Thus, the three bilateral convention texts adopted are intended to meet the desires of states which for the moment are willing only to make pacific settlement agreements with single states. Each of the three fundamentally provides for the examination of all

[1] The French Government submitted to the Chamber on March 16, 1929, a project of law authorizing accession to the General Act. Reservations are specified as follows:

"This accession will be given, reserving the conventions for conciliation, judicial settlement or arbitration already concluded or to be concluded by the Government of the Republic, it being understood, moreover, by application of Art. 39 of the General Act, that differences dealing with claims of a character to disturb existing treaties, with the political or economic régime of the state or with the organization of national defense shall be submitted to the procedures provided by this General Act only if the parties, or one or other of them, do not submit their difference to the Council of the League of Nations, in conformity with Art. 12 of the Covenant, for consideration under the procedure established by Art. 15 of the Covenant."

The explanations of these reservations given in the letter of submission are of considerable interest.

As to differences involving claims affecting existing treaties, the explanation is that this raises the question of the revision of treaties, the conditions for which are laid down in Art. 19 of the Covenant; and it is added: "It does not seem to us admissible that any arbitral tribunal should impose the revision of any treaty whatsoever on the French Government."

As to injury to the "political and economic régime of the state," it is pointed out that the customary reservation is of the constitution of the state. "But," says the French Government, "the term 'constitution' does not seem to us to respond either to the special necessities of our organic legislation, which is far from being entirely included in our constitutional laws, nor particularly to the urgent conditions of modern economic life. It is not, therefore, doubtful that, although there does not exist an economic constitution, the fundamental principles of their customs, fiscal, banking, railroad, and other organization, in brief, their economic régime, may possess for modern states a character at least as essential as their political régime."

It is stated that the reservation in respect to the organization of national defense is made on account of "the absence of contractual provisions resulting from existing conventions or those which will be concluded under the auspices of the League of Nations in the matter of limitation of armament."

disputes and differs from the General Act simply by throwing emphasis upon one or the other method in the three or four substantive articles, while employing its actual text for all procedural details.

In each of the three treaties on mutual assistance, nonaggression, and pacific settlement there is a complete system of pacific settlement, employing for this purpose the articles of the General Act. The Assembly produced models of both a collective and a bilateral treaty of nonaggression. These are identic, *mutatis mutandis*, and begin as follows:

> ART. 1. The high contracting parties mutually undertake that they will in no case attack or invade each other or resort to war against each other.
>
> This stipulation shall not, however, apply in the case of:
>
> (1) The exercise of the right of legitimate defense, that is to say, resistance to a violation of the undertaking contained in the previous paragraph;
>
> (2) Action in pursuance of Art. 16 of the Covenant of the League of Nations;
>
> (3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations, or in pursuance of Art. 15, par. 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a state which was the first to attack.
>
> ART. 2. The high contracting parties undertake to settle by peaceful means and in the manner laid down in the present treaty all questions whatsoever on which they may differ and which it has not been possible to settle by the normal methods of diplomacy.
>
> ART. 3. Should any one of the high contracting parties consider that a violation of Art. 1 of the present treaty has taken place or is taking place, it shall immediately bring the question before the Council of the League of Nations.

The collective treaty of mutual assistance reads the same with the primary addition of the following paragraph:

> As soon as the Council of the League of Nations has ascertained that such a violation has taken place, it shall at once advise the powers which have signed the present treaty, and each of these powers undertakes in such a case to give assistance forthwith to the power against which the act complained of has been directed.

These texts employ the formula of the Locarno treaty of mutual guaranty, but do not contain:

(*a*) A clause guaranteeing the maintenance of the territorial *status quo*,

(*b*) A guaranty by third states.

All these documents are being studied by the Governments of states throughout the world. Those for pacific settlement seem to have attracted the most favorable attention, and the General Act entered into force before the meeting of the Tenth Assembly in September, 1929. Only Rumania had expressed a view upon those for mutual assistance and nonaggression. It has announced that it is ready to conclude any of the model treaties with all states, whether Members of the League or not.[1]

Attitude of the United States

The United States participated but slightly in these developments. Not being a Member of the League of Nations, it did not have a share in the discussions as to pacific settlement nor prior to 1926 in the disarmament deliberations of the League. Since 1926 it has taken no part in the arbitration and security activities at Geneva. In other League activities, however, the United States was participating generally in work where it perceived that the common interest sought was also its interest.

From 1920 to 1927 arbitration treaties were made with Liberia and Sweden on the basis of the 1908 formula, and six others on the same pattern were twice renewed for periods of five years. One of the Bryan treaties belatedly came into force, while the commissions under 19 out of the 21 of them in force were allowed to remain incomplete and inoperative. In 1923, the United States signed two multilateral conciliation treaties, one with the Pan American and the other with the Central American states, both of which entered into force.

One evidence of popular concern over the failure of the

[1] *Official Journal*, X, p. 353.

United States to do more was the development of a movement for the "outlawry of war," which was organized by the American Committee for Outlawry of War with headquarters in Chicago. In January, 1922, Senator William E. Borah came out in favor of this plan by publishing the committee's program as a Senate document [1] and introducing a resolution into the Senate embodying its subject matter. From that time, Senator Borah kept the proposal before the Senate in a succession of resolutions which underwent various revisions in the course of the next five years as they were brought forward in the early days of each biennial Congress. The resolution was last introduced on December 12, 1927, when it took the following form: [2]

Whereas war is the greatest existing menace to society, and has become so expensive and destructive that it not only causes the stupendous burdens of taxation now afflicting our people but threatens to engulf and destroy civilization; and

Whereas civilization has been marked in its upward trend out of barbarism into its present condition by the development of law and courts to supplant methods of violence and force; and

Whereas the genius of civilization has discovered but two methods of compelling the settlement of human disputes, namely, law and war, and therefore, in any plan for the compulsory settlement of international controversies, we must choose between war on the one hand and the process of law on the other; and

Whereas war between nations has always been and still is a lawful institution, so that any nation may, with or without cause, declare war against any other nation and be strictly within its legal rights; and

Whereas revolutionary war or wars of liberation are illegal and criminal, to wit, high treason, whereas, under existing international law, wars between nations to settle disputes are perfectly lawful; and

Whereas the overwhelming moral sentiment of civilized people everywhere is against the cruel and destructive institution of war; and

Whereas all alliances, leagues, or plans which rely upon war as the ultimate power for the enforcement of peace carry the seeds either of their own destruction or of military dominancy, to the utter subversion of liberty and justice; and

Whereas we must recognize the fact that resolutions or treaties outlawing certain methods of killing will not be effective so long as war

[1] S. Doc. 115, 67th Cong. 2d Sess.

[2] S. Res. 45, 70th Cong. 1st Sess.

itself remains lawful; and that in international relations we must have not rules and regulations of war but organic laws against war; and

Whereas in our Constitutional Convention of 1787 it was successfully contended by Madison, Hamilton, and Ellsworth that the use of force when applied to people collectively — that is, to states or nations — was unsound in principle and would be tantamount to a declaration of war; and

Whereas we have in our Federal Supreme Court a practical and effective model for a real international court, as it has specific jurisdiction to hear and decide controversies between our sovereign States; and

Whereas our Supreme Court has exercised this jurisdiction without resort to force for 137 years, during which time scores of controversies have been judicially and peaceably settled that might otherwise have led to war between the States, and thus furnishes a practical exemplar for the compulsory and pacific settlement of international controversies; and

Whereas an international arrangement of such judicial character would not shackle the independence or impair the sovereignty of any nation: Now, therefore, be it

Resolved, That it is the view of the Senate of the United States that war between nations should be outlawed as an institution or means for the settlement of international controversies by making it a public crime under the law of nations and that every nation should be encouraged by solemn agreement or treaty to bind itself to indict and punish its own international war breeders or instigators and war profiteers under powers similar to those conferred upon our Congress under Art. I, sec. 8, of our Federal Constitution, which clothes the Congress with the power "to define and punish offenses against the law of nations"; and be it

Resolved further, That a code of international law of peace based upon the outlawing of war and on the principle of equality and justice between all nations, amplified and expanded and adapted and brought down to date, should be created and adopted.

Second, that, with war outlawed, a judicial substitute for war should be created (or, if existing in part, adapted and adjusted) in the form or nature of an international court, modeled on our Federal Supreme Court in its jurisdiction over controversies between our sovereign States; such court shall possess affirmative jurisdiction to hear and decide all purely international controversies, as defined by the code, or arising under treaties, and its judgments shall not be enforced by war under any name or in any form whatever, but shall have the same power for their enforcement as our Federal Supreme Court, namely, the respect of all enlightened nations for judgments resting upon open and fair investigations and impartial decisions, the agreement of the nations to abide and be bound by such judgments and the compelling power of enlightened public opinion.

II. NEGOTIATION OF THE TREATY

1. The French Proposal

On April 6, 1927, the 10th anniversary of the entrance of the United States into the World War, Aristide Briand, French minister for foreign affairs, in a statement through the Associated Press to the American people said: [1]

> For those whose lives are devoted to securing this living reality of a policy of peace, the United States and France already appear before the world as morally in full agreement. If there were need for those two great democracies to give high testimony of their desire for peace and to furnish to other peoples an example more solemn still, France would be willing to subscribe publicly with the United States to any mutual engagement tending to outlaw war, to use an American expression, as between these two countries. The renunciation of war as an instrument of national policy is a conception already familiar to the signatories to the Covenant of the League of Nations and of the treaties of Locarno. Every engagement entered into in this spirit by the United States toward another nation such as France would contribute greatly in the eyes of the world to broaden and strengthen the foundations on which the international policy of peace is being erected. These two great friendly nations, equally devoted to the cause of peace, would furnish to the world the best illustration of the truth that the immediate end to be attained is not so much disarmament as the practical application of peace itself.

The full statement closed with a reference to the pilgrimage planned by some 20,000 members of the American Legion to Paris during the coming summer, and this feature of the statement attracted immediate attention. Both Governments were aware that some nine months later the arbitration convention of February 10, 1908, was due to expire, and had given consideration to the form

[1] For the full statement see *The Pact of Paris*, with historical commentary by James T. Shotwell, p. 25 (*International Conciliation*, No. 243).

which a new treaty should take.[1] On June 20, 1927, the French Government transmitted to the Secretary of State, through the American ambassador at Paris, a draft of a "pact of perpetual friendship between France and the United States," which proposed agreement on the following:

ART. I. The high contracting powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy toward each other.

ART. II. The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America shall never be sought by either side except by pacific means.

RECEPTION IN UNITED STATES

No action on this proposal was taken for six months. In the Department of State, it gave practical point to the re-examination of the position of the United States with respect to the development of pacific settlement. The knowledge that the proposal had been made excited some favorable interest in the country. On December 6, 1927, Senator Capper introduced in the Senate a resolution (S. J. Res. 14) declaring it to be the policy of the United States to make treaties "with France and other like-minded nations formally to renounce war as an instrument of public policy and to adjust and settle its international disputes by mediation, arbitration or conciliation," and also "to accept the definition of aggressor nation as one which, having agreed to submit international differences to conciliation, arbitration or judicial settlement, begins hostilities without having done so." The Borah "outlawry of war" resolution was reintroduced in the Senate on December 12.

[1] "In the beginning," said M. Briand in addressing the French Senate on March 29, 1929, "I took advantage of an anniversary to address myself to the American people and to hold up a simple formula, slightly mystical, susceptible of impressing and attracting the popular masses . . . I did not foresee all that would result from my message; I admit that in all modesty."

During December the French ambassador consulted with the Secretary of State and Senator Borah saw both Secretary Kellogg and Ambassador Claudel. The Americans were anxious to make a favorable response to the French note, but were not satisfied that a bilateral treaty in which France and the United States renounced war would not partake of the nature of an alliance. The tendency of national policies to create individually advantageous arrangements at the expense of improving relations in general was the thing which especially concerned the Americans, who did not wish to encourage or be a party to any agreement which would result in a political grouping. Both the spokesmen for the Executive and Legislative divisions of the Government concluded that a greater measure of security lay in a general agreement than in a bilateral agreement. The reasoning was that an engagement with a single state not to go to war both forced a condition of neutrality on the other contractant and enabled the former to count upon that fact, with a proportionate encouragement to try to benefit from the situation. But, if the other state's potential antagonists were included in a multilateral treaty, the temptation to misuse the engagement for national ends would not arise — the common pledge would include all concerned.

The pourparlers indicated that it was not an objection to this reasoning which had resulted in the making of the French proposal in a bilateral form. From the French point of view its engagements under the League of Nations and the relations established by the Locarno treaties had the effect of a renunciation of war as an instrument of national policy so far as the contractants were concerned. Since a similar engagement did not exist with the United States, the French had deemed it politic to propose a repetition of their existing pledges only with that country. But, if the United States desired to build an agreement upon a broader basis, the French were not disposed to raise any questions.

2. The Multilateral Proposal

The position having thus been explored by inquiry, the Secretary of State on December 28, 1927, replied on behalf of the United States Government to the French proposal of June 20. The reply involved two considerations which took independent courses.

The Secretary of State recorded that "the United States welcomes every opportunity of joining with the other Governments of the world in condemning war and pledging anew its faith in arbitration." Being of the opinion "that every international indorsement of arbitration . . . materially advances the cause of world peace," he gave "concrete expression" to his views by referring to a note sent on the same day in which he proposed a form of arbitration treaty to supersede the convention of 1908,[1] which was due to expire on February 27, 1928. The proposed text was described as extending the scope of arbitration and as recording "the unmistakable determination of the two Governments to prevent any breach in the friendly relations which have subsisted between them for so long a period." This draft of the arbitration treaty recognized the generally accepted principle of arbitrating specified types of disputes and of leaving to a conciliation commission all other disputes arising between the parties and not settled by the ordinary processes of negotiation. In the case of France, the treaty for the advancement of peace — establishing the Franco-American conciliation machinery — of September 15, 1914, was indefinitely in force and would, therefore, remain as a part of the system of pacific settlement provided between the two countries.

The proposal contained in this portion of the American note was rapidly realized, and the new arbitration treaty was signed at Washington on February 6, 1928, commemorating the 150th anniversary of the signing of the Revolutionary alliance with France.

The association of the new arbitration treaty with the

[1] *Treaties, Conventions, Protocols*, etc., 1776–1909, I, p. 549.

existing conciliation treaty was immediately adopted by the Department of State as the basis of active negotiations with other states. As soon as its text was determined, copies of it and of the treaties for the advancement of peace negotiated in 1913–1914 were transmitted to many governments as the form of engagement for the pacific settlement of international disputes which the United States was willing to conclude with other states. It was thus early evident that the Department of State was embarking upon an active policy of completing a series of engagements to provide bilaterally for the settlement of all disputes by pacific means. There was also entailed, as a result of the technical condition of American treaties of pacific settlement, a considerable revision of such practical details as the completion of conciliatory commissions and adequate provision for the supersession of the "national honor, vital interest" type of arbitration treaty.

The policy of the United States as evidenced by the note of December 28, 1927, consequently took the form of two proposals:

1. A series of bilateral treaties providing for the pacific settlement of all disputes. The arbitration treaty is limited in jurisdiction, but involves binding decisions; while the conciliation treaty is unlimited in jurisdiction, but does not result in binding decisions.
2. A multilateral treaty "open to signature by all nations condemning war and renouncing it as an instrument of policy in favor of the pacific settlement of international disputes."

The fact that these two proposals were made simultaneously and that their realization was sought at the same time, though independently of each other, should be kept in mind while estimating the significance of the multilateral treaty, the second article of which pledges the contracting states to the settlement of all disputes or conflicts by pacific means.

The French proposal of June 20, 1927, was to the effect that France and the United States should renounce war

"as an instrument of their national policy toward each other" and that the solution of all disputes or conflicts between them "shall never be sought by either side except by pacific means." Secretary Kellogg in his note of December 28 stated that he was prepared to concert with M. Briand "with a view to the conclusion of a treaty among the principal powers of the world, open to signature by all nations, condemning war and renouncing it as an instrument of national policy in favor of the pacific settlement of international disputes." Thus, a bilateral proposal was given a world-wide significance by being transformed into a multilateral suggestion. "While we might well have hesitated to take the initiative in proposing such a treaty to Europe, the invitation from France afforded us an opportunity to examine anew the whole question of world peace and to determine in what practical manner we could best cooperate." [1]

The initial negotiators could not have been more fortunately selected to make the outcome a world-wide solution of a great problem. The President had said of the United States: "So far as we can look into the future, so far as we can gauge the power and temper of other peoples, there never was a time when it was less likely than now that any other nation or combination of nations would or could make any attack on us." [2] On the other hand, France was the one nation in the world whose policy had been most sedulously devoted to realizing national security by diplomatic means. The United States viewed a peace system as something to be developed in itself, trusting the nation's own judgment, if and when force should be employed. France wished to insure peace by placing behind its established standards the available force of the well-disposed. If these two schools of thought — each the result of national experience — could be reconciled, the prospect of a unified and universal peace formula was in sight.

[1] Secretary Kellogg "The War Prevention Policy of the United States," *Foreign Affairs*, Spec. Supp. to Vol. VI, No. 3, p. vii.

[2] *Address to graduating class U. S. Naval Academy*, Annapolis, Md., June 3, 1925, p. 4.

Multilateral Form Agreed To

There was, consequently, some importance to Secretary Kellogg's suggestion that conversations be begun "looking to the preparation of a draft treaty following the lines suggested by M. Briand for submission by France and the United States jointly to the other nations of the world." If France and the United States could harmonize their points of view, there was little reason for doubting that their agreement could be made acceptable to all other states.

The French reply in the note of January 5, 1928, was that the Paris Government was "disposed to join . . . in proposing for agreement by all nations a treaty to be signed at the present time by France and the United States," which "will engage to bring [it] to the attention of all states and invite them to adhere." The question was whether other states were to be presented with a draft for consideration or with a completed document to which they could subscribe. The French view was based on the fact that France was a Member of the League of Nations, whose engagements already existed between France and the others; so that the Franco-American proposal would be for it a subsidiary undertaking, but including the powerful United States in the pledge not to resort to war.

"In the opinion of the Government of the United States this procedure," said the note of January 11, "is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one of the other great powers." Thus the effort "would be rendered abortive"; which would not be the case if the views of other Governments "could be accommodated through informal preliminary discussions and a text devised which would be acceptable to them all." The engagement it proposed to take would be the only one binding the United States, and the American idea was that it should be as general as possible. France

on January 21 waived the point as "essentially one of procedure," and was "ready to concur in any method which may appear to be the most practicable." The French note called attention to the circumstance that the United States, "for reasons of its own," considered "that it would be opportune to broaden this manifestation against war" beyond the two parties. As a consequence, "the new negotiation as proposed would be more complex and likely to meet with various difficulties," which it proceeded to discuss.

Debate over Aggression

The French note of January 5 defined the proposal as calculated to "renounce all war of aggression." The American note of January 11, taking up the phrase, called attention to the fact that the June proposal of France "contained no such qualification or limitation." It was earnestly hoped that the modification was of no particular significance. In order to insure progress of the negotiations, the American note suggested that the original French proposal and the notes exchanged be transmitted to the British, German, Italian, and Japanese Governments for preliminary discussion of a multilateral agreement.

The French reference to aggressive war brought the Franco-American negotiations into relation with the approach to the war problem which had been so long pursued by the League states at Geneva. France had been the leader in seeking definite criteria to determine aggression in the belief that its definition would open the way to solve both the problems of security and reduction of armament. The authorities of the United States, as far back as the Senate debate on Art. 10 of the Covenant, had taken the attitude that aggression can be recognized, but not defined. The view has been succinctly stated as follows: [1]

[1] Sir Austen Chamberlain in the House of Commons, November 24, 1927, *Official Journal*, IX, p. 703.

If you laid down, far in advance, before circumstances that you can not foresee, rigid definitions by which the aggressor is to be determined, are you quite sure that in thus making these strict rules in circumstances which are unknown to you, you may not find when the occasion arises, that by some unhappy turn in your definition you have declared to be the aggressor that party which, to the knowledge of all men at the time, is the aggressed and not the offender?

Believing with that speaker that the attempt to define the aggressor would prove to "be a trap for the innocent and a sign post for the guilty," the United States Government was anxious not to make the negotiations for the renunciation of war dependent upon the criteria of aggression.

In explanation of the use of the phrase, the French in their reply of January 21, 1928, stated that there is "a situation of fact to which my Government has requested me to draw your particular attention." This situation was "that the great majority of the powers of the world . . . are making the organization and strengthening of peace the object of common efforts carried on within the framework of the League of Nations." They were already bound to one another by the Covenant, by agreements like those of Locarno, or by international conventions relative to guaranties of neutrality. The duties of these engagements "they can not contravene." France cited the unanimous resolution of the Assembly of September 24, 1927, which condemned aggressive war as an international crime and specified that all peaceful means must be employed for the settlement of differences between states. "This is the condition of affairs which the United States, while a stranger thereto, can not decline to take into consideration just as must any other state called upon to take part in the negotiation."

This French reply had been preceded by much press speculation and was followed by a lively discussion. The resolution of the League Assembly in 1927 did not attempt

a definition of aggression and, as already indicated, was put forth as a precept in international relations. The Locarno treaty of mutual guaranty [1] refers to "an unprovoked act of aggression" as the *casus fœderis*, without attempting to define it closely.

The duty of Members of the League under Art. 16 of their Covenant to apply sanctions came into the discussion. Beginning with the Locarno treaty, the formula outside of the United States has been to except "action in pursuance of Art. 16 of the Covenant of the League of Nations" from the undertaking "in no case to resort to war." Art. 16 stipulates that the covenant-breaking state shall have resorted to war before its provisions are applicable, but it does not define the action of covenant-keeping states under the article as war. There are indications that the League states do not regard such action as war,[2] because "the existence of a state of war between two states depends upon their intention and not upon the nature of their acts." So the employment of means of coercion under their Art. 16 would not necessarily be war for the states joining with the Washington Government in the anti-war treaty.

American Position

Secretary of State Kellogg, in his reply of February 27, hoped that the French Government would be able to satisfy itself that a multilateral anti-war treaty would be "consistent with membership in the League of Nations." If Members of the League could not agree to renounce war as an instrument of their national policy without violating the terms of the Covenant, it seemed idle to discuss the subject. He said: "I am reluctant to believe, however, that the provisions of the Covenant of the League of Nations really stand in the way of the cooperation of the United States and Members of the League of Nations in

[1] For text see *World Peace Foundation Pamphlets*, Vol. IX, p. 55.

[2] League of Nations, *Official Journal*, IX, p. 834.

a common effort to abolish the institution of war." He trusted that no Member of the League would "finally decide that an unequivocal and unqualified renunciation of war as an instrument of national policy either violates the specific obligations imposed by the Covenant or conflicts with the fundamental idea and purpose of the League of Nations."

The Secretary felt that it would greatly weaken and virtually destroy the positive value of the declaration as a guaranty of peace if it were accompanied "by definitions of the word 'aggressor' and by exceptions and qualifications stipulating when nations would be justified in going to war." It was the "purity and simplicity" of the ideal which inspired the effort of the two Governments, that made it so "arresting and appealing." The Secretary of State added a new consideration in American negotiations for the attainment of peace: "I can not avoid feeling that if Governments should publicly acknowledge that they can only deal with this ideal in a technical spirit and must insist upon the adoption of reservations impairing, if not utterly destroying the true significance of their common endeavors, they would be in effect only recording their impotence, to the keen disappointment of mankind in general."

The French Government replied on March 30 with the object of facilitating an immediate decision as far as it could and for that reason adopting "as practical a point of view as possible." The reason France sought to confine the proposal to wars of aggression was that an absolutely unconditional agreement in a multilateral treaty would expose the signatories "to juridical difficulties resulting from the respective positions of various powers with regard to one another," which "could never constitute in fact anything but purely theoretical obstacles" in a bilateral treaty. Calling attention to the interplay of relations between the parties of a multilateral treaty, — which is not a joint agreement but one of each party to each other party — the French note commented that one

of the resolutions of the Pan American Conference at Habana [1] had for that reason been limited to "wars of aggression."

Drafts Sent to Principal Governments

The Secretary of State next, by agreement with the French Government, submitted the correspondence to the British, German, Italian and Japanese Governments. In taking this action on April 13, Mr. Kellogg stated that a point had been reached where each of those Governments should "have an opportunity formally to decide to what extent, if any, its existing commitments constitute a bar to its participation with the United States in an unqualified renunciation of war." Attached to this note was a draft treaty, the substance of which was as follows:

> Art. I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.
>
> Art. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or whatever origin they may be, which may arise between them, shall never be sought except by pacific means.

On April 20, the French Government summarized its position as stated in its note of March 30 in a counter draft, which read:

> Art. 1. The high contracting parties without any intention to infringe upon the exercise of their rights of legitimate self-defense within the framework of existing treaties, particularly when the violation of certain of the provisions of such treaties constitutes a hostile act, solemnly declare that they condemn recourse to war and renounce it as

[1] The United States Government had intended to call the attention of the French Government to one of the Habana resolutions providing for the Pan American Conference on Conciliation and Arbitration in which "the American Republics adopt obligatory arbitration as the means which they will employ for the pacific solution of their international differences of a juridical character." The French reference was to a Habana resolution of February 18, 1928, repeating in substance the League of Nations Assembly resolution of 1927 and resolving:

"(1) All aggression is considered illicit and as such is declared prohibited.

"(2) The American states will employ all pacific means to settle conflicts which may arise between them."

an instrument of national policy; that is to say, as an instrument of individual, spontaneous and independent political action taken on their own initiative and not action in respect of which they might become involved through the obligation of a treaty such as the Covenant of the League of Nations or any other treaty registered with the League of Nations. They undertake on these conditions not to attack or invade one another.

ART. 2. The settlement or solution of all disputes or conflicts of whatever nature or origin which might arise among the high contracting parties or between any two of them shall never be sought on either side except by pacific methods.

ART. 3. In case one of the high contracting parties should contravene this treaty, the other contracting powers would *ipso facto* be released with respect to that party from their obligations under this treaty.

ART. 4. The provisions of this treaty in no wise affect the rights and obligations of the contracting parties resulting from prior international agreements to which they are parties.

ART. 5. The present treaty will be offered for the accession of all powers and will have no binding force until it has been generally accepted unless the signatory powers in accord with those that may accede hereto shall agree to decide that it shall come into effect regardless of certain abstentions.

Secretary of State Kellogg was the first speaker at the dinner of the American Society of International Law in Washington on the evening of April 28. With him on the same program was Paul Claudel, the French ambassador. The Secretary of State took the occasion to discuss the differences between the American and French drafts. The views of the United States on the six major considerations which the French Government had emphasized were discussed by him in substance as follows:[1]

1. *Self-defense.* The right of self-defense[2] "is inherent in every sovereign state and is implicit in every treaty." Every nation is free at all times to defend its territory from attack or invasion and to decide whether circumstances require such action, which the world will applaud "if it has a good case." To recognize this right by treaty would raise the same difficulty as is found in every effort to define aggression, being "the identical question approached

[1] The statement in full is incorporated in the note of June 23, p. 135 [355].

[2] The French "legitimate defense" has a slightly different significance.

from the other side." To stipulate "a juristic conception of self-defense" in a treaty is not in the interest of peace, "since it is far too easy for the unscrupulous to mold events to accord with an agreed definition."

2. *The League Covenant.* "The Covenant imposes no affirmative primary obligation to go to war." The Fourth Assembly in a resolution on Art. 10, not formally adopted owing to one adverse vote, found that the constitutional authorities of each Member would decide on the employment of their military forces. He found that there was "no necessary inconsistency between the Covenant and the idea of an unqualified renunciation of war," since the Covenant did no more than authorize war in certain circumstances, not require it.

3. *The Treaties of Locarno.* Any positive obligation to go to war in these treaties would not attach until one of the parties had resorted to war in violation of its pledges. If all the parties to the Locarno treaties were parties to the present treaty, a double assurance that the Locarno treaties would not be violated would be given. Violation of the Locarno treaties would also be a breach of the proposed treaty, from the obligations of which the other parties would, "as a matter of law, be automatically released." The United States was entirely willing for all of them to become parties to the treaty.

4. *Treaties of Neutrality.* Though the United States was not informed as to the precise treaties France had in mind, it was supposed "that the relations between France and the states whose neutrality she had guaranteed are sufficiently close and intimate to make it possible for France to persuade such states to adhere seasonably to the anti-war treaty proposed by the United States." An attack against such a state would leave France free to act.

5. *Relations with a Treaty-breaking State.* Any expressed recognition of the "principle of law," that "violation of a multilateral anti-war treaty through resort to war by one party thereto would release the other parties from their obligations to the treaty-breaking state," was declared unnecessary.

6. *Universality.* The United States from the first desired that the treaty should be "world-wide in its application." As a practical matter, it was urged that its coming into force should not be conditioned upon "prior universal or almost universal acceptance." It was highly improbable that a form acceptable to the British, French, Italian, Japanese and United States Governments "would not be equally acceptable to most, if not all," of the other states.

Dominions and Locarno States Added

The German Government in a note of April 27 declared "that it is ready to conclude a pact in accordance with the proposal of the Government of the United States and to this end to enter into the necessary negotiations with the Governments concerned." On May 5, the Italian Government offered "very willingly her cordial collaboration toward reaching an agreement"; but hoped that the United States would participate in "a preliminary meeting of the legal experts of the powers [1] whose direct interest in the proposed treaty has been enlisted." The Japanese Government on May 26 replied "that they would be glad to render their most cordial cooperation toward the attainment" of the end proposed by the United States. The London Government on May 19 stated that "it will gladly cooperate in the conclusion of such a pact as is proposed." The English note analyzed the two drafts before it and found "that there is no serious divergence between the effect" of them. In general the London Government agreed with the American interpretation as expressed in Mr. Kellogg's speech of April 28. It stated, however, that "there are certain regions of the world the welfare and integrity of which constitute a special and vital interest for our peace and safety. . . . Their protection against attack is to the British Empire a measure of self-defense. It must be clearly understood that his Majesty's Government in Great Britain accept the new treaty upon the distinct understanding that it does not prejudice their freedom of action in this respect." The "comparable interests" of the United States were referred to.

This reply was "on behalf of his Majesty's Government in Great Britain." It stated that the proposal did not concern the London Government alone, but was one in "which they could not undertake to participate otherwise than jointly and simultaneously with his Majesty's Governments in the Dominions and the Government of India."

[1] The plans for the meeting referred to were not pursued, though discussions of experts took place.

Following this suggestion, Secretary Kellogg on May 22 issued separate invitations to the Governments of Canada and the Irish Free State through the American ministers at Ottawa and Dublin and to the Governments of Australia, New Zealand, South Africa and India through the London Government by the American ambassador in that capital. This action was a formal and complete recognition of the international status of the component parts of the British Commonwealth of Nations by the United States.

The Canadian Government on May 30 accepted the American invitation to become one of the original parties to the treaty without any reservations, but stated that it regarded the League of Nations, "with all its limitations, as an indispensable and continuing agency of international understanding and would not desire to enter upon any course which would prejudice its effectiveness." It saw "no conflict either in the letter or in the spirit between the Covenant and the multilateral pact or between the obligations assumed under each." On the same day the Government of the Irish Free State accepted "unreservedly." New Zealand received the invitation "with warm appreciation" and "will be happy to share in the negotiations." Australia on June 2 "will be happy to cooperate to the fullest extent in the successful conclusion of the treaty." The Government of India accepted the invitation and desired to associate itself with the London note of May 19. The Government of the Union of South Africa stated that it would gladly take part in the negotiations and took it for granted (*a*) that the treaty would not deprive any party "of any of its natural right of legitimate self-defense;" (*b*) that its violation "will free the other parties from obligation to observe its terms in respect of the party committing such violation;" and (*c*) that the Union would not "be precluded from fulfilling as a Member of the League of Nations its obligations toward the other members thereof under the provisions of the Covenant of the League."

The correspondence just cited added six states to the number invited to negotiate the anti-war treaty. In his

remarks on April 28, Secretary Kellogg had referred to the French concern about keeping the treaties of Locarno and treaties guaranteeing neutrality intact. His answer was that the states concerned should be invited in. This was done with respect to the Locarno group by including them all, the additions being Belgium, Czechoslovakia and Poland. He commented, with respect to the treaties of neutrality, that "the United States is not informed as to the precise treaties which France has in mind," but this uncertainty did not prevent the suggestion that France might persuade "such states to adhere seasonably to the anti-war treaty."

In accordance with this attitude the American note of June 23 was transmitted to Belgium, Czechoslovakia and Poland [1] in addition to France, Germany, Great Britain, Italy, Japan, Australia, Canada, India, Irish Free State, New Zealand and South Africa, making, with the United States, 15 Governments contemplated as original parties to the treaty. Of these, eight are situated in the European area, two in the American hemisphere, each of which borders on both the Atlantic and Pacific Oceans, three in the Pacific area, one in Africa and one in Asia.

Interpretative Note of June 23

The American Secretary of State gave his final proposal the form of a 4,000-word identic note to the 14 other states. Mr. Kellogg reviewed the course of the negotiations since April 13, and quoted textually his replies to the six French considerations from his address of April 28. The evident intention of including these interpretations in the note was to connect them more intimately with the meaning to be given to the draft treaty which was appended to it. This was further emphasized by his citing the fact that none of the replying Governments had expressed any dissent from those interpretations. Nor had any of them "voiced the

[1] In a speech on May 18 Auguste Zaleski, the Polish foreign minister, speaking before the Foreign Affairs Commission of the Diet, expressed the same considerations stated by South Africa, adding that he concluded "from Mr. Kellogg's speeches that our point of view agrees with his."

least disapproval of the principle underlying the proposal of the United States for the promotion of world peace." This being the case, and no Government having suggested any specific modification, the United States Government "remains convinced that no modification of the text . . . is necessary to safeguard the legitimate interests of any nation."

As to the specific points, "the right of self-defense is . . . implicit in every treaty."

The principle was "well recognized" that resort to war in violation of the proposed treaty "would release the other parties from their obligations under the treaty toward the belligerent state." By the draft under discussion the parties renounce war as an instrument of national policy and shall never seek the settlement of disputes except by pacific means. It would then follow that a state was under no obligation to refrain from war against a state which had broken the treaty, while observing its provisions toward the other parties. The interpretation is reminiscent of the old legal attainder.

The United States welcomed the idea that all parties to the treaties of Locarno should be among the original signatories of the proposed treaty for the renunciation of war. In this way "no state could resort to war in violation of the Locarno treaties without simultaneously violating the anti-war treaty," thus leaving the other parties thereto free to act so far as the treaty-breaking state was concerned. By the Locarno treaty of mutual guaranty, the five parties "collectively and severally guarantee . . . the maintenance of the territorial *status quo* resulting from the frontiers between Germany and Belgium and between Germany and France." In the event of a double violation of the anti-war and Locarno treaties, the American interpretation of the anti-war treaty would leave the Locarno parties free to fulfill this guaranty by force of arms.

"The same procedure," said the note of the United States, "would cover the treaties guaranteeing neutrality to which the Government of France has referred." Without

specifying the states concerned, Mr. Kellogg said that "my Government would be entirely willing, however, to agree that the parties to such neutrality treaties should be original signatories of the multilateral anti-war treaty." No official identification of the states referred to had formally been given to the United States, but there was no question that the treaties between France on the one hand and Rumania and the Serb-Croat-Slovene State on the other were in mind. The treaties in question [1] are replicas of the Locarno formula, excluding "the right of legitimate defense." [2]

In the note of June 23, Secretary Kellogg indicated that the second American draft treaty was "without change, except for including among the original signatories the British Dominions, India, all parties to the treaties of Locarno and, it may be, all parties to the neutrality treaties mentioned by the Government of France." The Secretary continued that he believed that a revision of the preamble would meet the conditions under discussion. This revision consisted of a change of one paragraph and the addition of two others, of which the third reads:

> Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process and that any signatory power which shall hereafter seek to promote its national interest by resort to war should be denied the benefits furnished by this treaty.

He again reiterated the intention to release the state resorting to war from the treaty with the object of allowing parties to other treaties to fulfill their engagements. As to admitting additional states to the negotiations, he suggested that the interests of the states bound by neutrality treaties "would be adequately safeguarded if, instead of signing in

[1] Treaty of friendship between France and Rumania signed at Paris June 10, 1926. (League of Nations, *Treaty Series*, Vol. LVIII, p. 225.) Treaty of friendly understanding signed between France and the Serb-Croat-Slovene State at Paris November 11, 1927. (*Ibid.*, LXVIII, p. 373.)

[2] There is a technical question whether "legitimate defense" is not a preferable expression to "self-defense," since the latter does not necessarily involve a test of legitimate action.

the first instance, they should choose to adhere to the treaty." Having been instructed by the President to state that the Government of the United States was ready to sign the proposed treaty at once, the Secretary of State expressed the fervent hope that each of the Governments "will be able promptly to indicate its readiness to accept, without qualification or reservation, the form of treaty now suggested by the United States." He would be pleased to be informed "at as early a date as may be convenient" whether the other Governments were willing to sign the definitive treaty. If this could be concluded, he stated that "my Government is confident that the other nations of the world will, as soon as the treaty comes into force, gladly adhere thereto and that this simple procedure will bring mankind's age-long aspiration for universal peace nearer to practical fulfilment than ever before in the history of the world."

It will be perceived that the American Government thus invited the states selected as original signatories to accept its draft without further negotiation. With the object of confining the determination of the definitive treaty to a restricted number of states, it was suggested that others than those already invited should become parties to it by adhesion only after its entrance into force.

Assent of Fourteen Invited Parties

The 14 states to which these considerations were presented found them acceptable and replied well within a month after appropriate internal procedure. The German response was transmitted after a vote of the Foreign Relations Commission of the Reichstag. In other states there were cabinet meetings. In Great Britain there was considerable expression of popular approval. France emphasized the importance attached to the negotiations by scheduling its reply on July 14, the national holiday. The replies were made as follows: July 8, Poland; July 11, Germany; July 14, France and Irish Free State; July 15, Italy; July 17, Belgium; July 18, Australia, Canada,

Great Britain, India, New Zealand and South Africa; July 20, Czechoslovakia and Japan. The substance of the replies was as follows:

Australia. Accepts the assurance of the American note "that the right of self-defense of the signatory state will not be impaired in any way." Notes that the preamble "accords express recognition to the problem that if one signatory state resorts to war in violation of the treaty, the other signatories will be released from their obligations" to that state; accepts the declaration "that the preamble in this respect is to be taken as a part of the substantive provisions of the treaty itself." Has "come to the conclusion that it is not inconsistent" with the Covenant of the League of Nations. The treaty "is completely satisfactory" as to these points, and the Government "will be quite agreeable to signing it in its present form."

Belgium. "Happy to pay her tribute to the idea inspiring the draft treaty." The text "commands the full approbation of the Royal Government." It notes "that the proposed pact will maintain unimpaired the rights and obligations arising from the Covenant of the League of Nations and from the Locarno agreements, which constitute for Belgium fundamental guaranties of security."

Canada. "Cordially accepts the treaty as revised and is prepared to participate in its signature."

Czechoslovakia. M. Béneš had several times emphasized "the political necessity of associating [in the negotiations] the other powers, and especially those who have assumed obligations at Locarno in 1925." It is clear that the treaty is not in opposition to the provisions of the Covenant, Locarno "or the neutrality treaties," nor those of other Czechoslovak treaties. Notes that the treaty will not benefit the violator and that the right of self-defense [1] "is in no way weakened nor restricted." Defines the purpose of the treaty as the renouncing of "war as an instrument of their national policy aimed to satisfy their selfish interests." Rejoices that participation is

[1] The French text of the note uses the phrase "légitime défense."

possible for other states "in order to invest it with as universal a character as possible." Is ready to sign the text.

France. Is in accord with the new stipulations of the preamble. Notes the interpretations intended to satisfy the French observations to the effect that the right of self-defense [1] is maintained intact; that the treaty is not "in opposition to the provisions of the Covenant of the League of Nations nor with the treaties of neutrality;" that violation automatically releases the parties with respect to a treaty-breaking state and finally the opening of the text to the Locarno and other states. France finds "that the new convention is compatible with the obligations of existing treaties to which France is otherwise a contracting party." "It is now entirely disposed to sign the treaty as proposed."

Germany. Agrees to the changes in the preamble; agrees with the interpretation given in the note of June 23 and "is accordingly ready to sign this pact in the form now proposed."

Great Britain. Recalls the stress previously laid by the Government on the automatic release of treaty-breaking states in case of violation of the treaty and its inability to agree to anything "which would weaken or undermine the Covenant of the League and the Locarno treaties," the "foundation of the policy of the Government." Notes that these points have been met; accepts the new treaty "upon the understanding that it does not prejudice" the Government's "freedom of action" in respect "to certain regions of which the welfare and integrity constitute a special and vital interest for our peace and safety." Trusts that a general invitation will be extended to all Members of the League to become parties to the treaty. Is glad to join in signing a definitive treaty.

India. The Government associates itself "whole-heartedly and most gladly with the terms" of the British note.

[1] The French text in the note for this phrase is "défense personnelle," not "légitime défense" as elsewhere.

Irish Free State. The Government had previously concluded that neither the right of self-defense nor commitments under the Covenant were in any way prejudiced. The revised draft "is equally acceptable." The Government is prepared to sign it, hopes that it may meet the approbation of the other Governments and "may subsequently be accepted by all the other powers of the world."

Italy. Agrees with the interpretation of the treaty in the note of June 23 and "on this premise declares that it is disposed to proceed to the signature thereof."

Japan. Gives "full concurrence to alterations now proposed" and is ready to prepare for signature.

New Zealand. Associates itself with the British note and "will have the utmost satisfaction" in signing the treaty.

Poland. Accepts the text and is ready to affix its signature; takes note of the statements that it does not affect the right of "legitimate defense" and is not incompatible with "the obligations deriving from the Covenant of the League." Further notes that a "state signatory to the pact, which may endeavor to realize its national interests by means of war, shall be deprived" of its benefits.

South Africa. Notes preservation of the right of "legitimate self-defense," the forfeiture by a violator of the treaty's benefits, and the fact that the treaty is open to all states. Has concluded "that the objects which the League of Nations was constituted to help can best be promoted by Members of the League of Nations participating in the proposed treaty." Has great pleasure in expressing its willingness to sign.

III. ENTRANCE OF THE TREATY INTO FORCE

1. Signing and Extension to the World

August 27, 1928, was the date set for the signing of the treaty and Paris as the place. There in the Salle de l'Horloge at the Foreign Office, above which flew the flags of all nations, the 15 plenipotentiaries of the negotiators affixed their signatures to an engrossed copy of the treaty in a memorable ceremony.

The selection of the place for signing was a tribute to the part which Aristide Briand, the French foreign minister, had taken in the initiation and the conduct of the negotiations then brought to completion. He opened the ceremony with an address instinct with his customary eloquence. He recalled the long struggle for peace, paid tributes to the delegates present, recalled the part which Mr. Kellogg had played in the negotiations, and feelingly referred to the presence of the German foreign minister in Paris for the first time in more than 50 years as an earnest of the new era which the treaty itself was intended to establish. He defined the signing of the treaty as marking a new date in the history of humanity. War was being shorn of "its most serious danger, its legitimacy." He found that the new engagement offered "a kind of general reinsurance" to the League of Nations, which was itself an "undertaking of insurance against war and a powerful institution of organized peace." He predicted that the single psychological fact of forsaking "the habit of associating the idea of national prestige and national interest with the idea of force" would not be the least important factor of future evolution. "Peace is proclaimed," he said. "That is well; that is much; but it still remains necessary to organize it. In the solution of difficulties, right and not might must prevail." And, noting that all present had

been engaged in the World War, he proposed that the act of signing should be consecrated "to the dead — to all the dead (turning to his German colleague) — of the Great War." The signing of the document followed.

The American Secretary of State, Frank B. Kellogg, journeyed to Paris for the occasion and had been presented by the municipality of Le Havre on landing with the gold pen by which all the delegates signed the treaty. Mr. Kellogg made the trip from Washington to Paris expressly in order to participate in the ceremony. This exclusive object of the trip was emphasized by his declination to discuss any public business while abroad. The only ceremonial exception was a visit to the capital of the Irish Free State. In line with the insistently exclusive purpose of his trip and to offer no occasion for comment upon American-European relations, he declined to speak at the ceremony of signing the treaty.

The signatures were affixed at Paris on a Monday, the occasion preceding by a week the opening of the Ninth Assembly of the League of Nations and by three days a regular meeting of its Council. It had been timed to suit the convenience of the majority of the signatories, who were due to attend one or other of the League meetings, and who left Paris promptly for Geneva. When the delegates of Members of the League got together in the Assembly, the general treaty was, therefore, a signed reality, and the Assembly proceeded with the assurance that its pledges were a part of the structure of international relations on which the organization of peace could be based.

Forty-nine Invitations to Adhere

The United States Department of State had printed all of the correspondence resulting in determination of the final text of the treaty and had transmitted it to every capital in which it had accredited representatives. Simultaneously with the ceremony of signing at Paris on August 27, the American missions abroad were instructed to hand that correspondence to the Governments of all states not

represented at the signing and to accompany it with a telegraphed note of invitation to adhere to the instrument. This procedure was followed in the case of 48 Governments. Since the United States had no representative accredited to the Government of the Soviet Union, the French Government was asked to transmit the invitation and correspondence to the appropriate officials at Moscow through its ambassador there. Those 49 Governments received the invitation to adhere to the general treaty at practically the same moment when the 15 negotiators signed it. By extending an invitation to "adhere," it was technically indicated that the invitation did not carry with it the possibility of altering the text or of accepting it otherwise than as a whole.[1]

The response to this invitation was immediate. Within 10 days 25 states in addition to the signatories had signified their intention to adhere, including the Soviet Union which had taken particular pains to be prompt, as well as somewhat critical. Intentions to adhere were steadily notified to the Department of State as the designated depository of the treaty in the following months, the delays in most cases being due to mailing communications to Washington or the requirements of internal formalities in some states. When Chile, which had awaited the action of the United States Senate before replying, notified its intention to adhere in January, 1929, a total of 62 states had accepted the general treaty. The document had met the approval of practically the whole organized world.[2]

The two states which did not accept the invitation extended to them were the Argentine Republic and Brazil. Brazil responded promptly and cordially to the United States on August 28, but without committing itself. It rejoiced with the "authors of the great pact" at its signature. Its sincerity was the greater because the prin-

[1] If the invitation had been one of "accession," a liberty to accept the document with modifications would have been implied.

[2] The Sultanate of Hejaz and Nejd, the Imamate of Yemen and miniature states of Liechtenstein, Monaco and San Marino are the only portions of the globe to which, theoretically, invitations might have been extended.

ciples of the treaty, before being placed in the Brazilian constitution,[1] (1891) were already consecrated "in the conscience of the nation." It has been asserted outside of Brazil that the Government would have signed the treaty if it had been given the opportunity.[2]

It is generally known that the Argentine Government does not intend to recognize the Monroe doctrine in any of the senses in which it is usually discussed as a portion of United States policy. Until the Senate acted on the treaty, there was a doubt as to the interrelation between it and that document. The Senate report referring to the Monroe doctrine[3] is not an international document of which the Argentine or other Governments have been given official cognizance.

The Governments invited to adhere to the treaty for the most part responded in formal terms. Several, however, went beyond the usual complimentary expressions. A few, like the Rumanian Government, referred to the definitions of the scope of the treaty expressed in the Secretary of State's note of June 23. Others emphasized special points.

Among these were Afghanistan, Egypt and Persia, all of which assumed that the British note of May 19 in its reference to regions of special concern to that Government might have a bearing upon their own adherence. Afghanistan forwarded its adherence on the understanding that it "only bears on the text of the treaty" itself.

The phraseology of the British note of May 19 was adapted from a circular note of March 15, 1922, of the British Government respecting the status of Egypt,[4] which had been recognized by a declaration of February 28, 1922. In Egypt, this circumstance excited consid-

[1] The constitution of the Republic of the United States of Brazil, promulgated February 24, 1891, and amended September 3, 1926, provides:

Art. 34. "The national congress shall have sole power:

(11) To authorize the Government to declare war, when arbitration has failed or is impracticable, and to make peace."

[2] *The New York Times*, March 17, 1929, p. E7.

[3] See p. 68 [288].

[4] 116 British and Foreign State Papers, at p. 85.

erable interest, since the status described in the declaration was deemed there to have been a unilateral British act. Owing to political conditions, no cabinet was functioning, but on August 14, 1928, the presidents of the Egyptian Chamber and Senate forwarded a note in which they called the attention of the signatory states to their contention that "it is, therefore, not possible to include Egypt — if such has ever been the intention of Great Britain — among the regions to which reference is made in par. 10 of the British note."[1] When the Egyptian cabinet was reconstructed, it forwarded a note declaring full adhesion to the pact on September 3, in which it regarded the engagements contemplated to be "for Egypt the best guaranty of security and, therefore, of development in order and progress." It understood "that this adhesion does not entail recognition of any reservation whatever made in connection with this pact."

The Persian minister of foreign affairs on October 3 gave his "cordial accession" on the consideration "that the reservations made by certain powers can in no case and at no time lay Persia under any obligation to recognize any possible claims of a nature to infringe her territorial or maritime rights or possessions." That Government also communicated its note to the Secretariat of the League of Nations with the request that it be forwarded to Members of the League.

The Cuban Government was anxious to be the first state to announce adhesion to the pact. In a series of diplomatic notes, it expressed itself very cordially and announced the technical stages in the process of adhesion with extreme promptness.

The Hungarian Government, in signifying its intention to adhere, recalled that it had been forced to sign a peace treaty which "created an unjust situation" that was not "a suitable basis for natural and peaceful development." Satisfactory results, war being eliminated, would depend upon "some different yet efficacious means for the solution

[1] *L'Europe Nouvelle*, Vol. XI, p. 1171.

of crises evolved from unjust and unnatural conditions." Hungary, in adhering, supposed that the United States and other signatories "will seek to find the means of rendering it possible that in the future injustices may be remedied by peaceful means." On March 20, 1929, the Hungarian premier explained the meaning of this note to the Foreign Affairs Committee of the House of Deputies. He stated that Hungary desired to assert its intention to raise at an appropriate time the question of the peaceful revision of the treaty of Trianon and desired to avoid the implication that such a revision could be regarded as a *casus belli.* Hungary regarded the tacit acceptance of its note of October 6 by the signatories as definitely establishing its right to raise the question within the framework of the League Covenant and of the Briand-Kellogg pact.[1]

The Lithuanian Government, in giving its "complete approval and adhesion" to the pact recited its own engagements of a similar character and recounted its point of view respecting its controversy with Poland over Vilna.

The Soviet Union promptly responded to the invitation to adhere extended through the French Government. Its lengthy note of August 31, 1928, recalled its "systematic defense of the cause of disarmament" and its bilateral treaties [2] to renounce "not only the wars dealt with in the

[1] *The London Times*, March 22, 1929, p. 15.

[2] The treaties referred to are those with Turkey, December 17, 1925; Germany, April 24, 1926; Afghanistan, August 31, 1926; Lithuania, September 28, 1926; and Persia, October 1, 1927 (*European Economic and Political Survey*, Vol. I, No. 8, p. 17; League of Nations *Treaty Series*, Vol. LIII, p. 387; *Soviet Review*, Vol. IV, p. 181; League of Nations *Treaty Series*, Vol. LX, p. 153). The substance of these treaties, which also provide for arbitration or conciliation of differences, is sufficiently indicated by the treaty of nonaggression with Lithuania, which provides:

"Art. 2. The Lithuanian Republic and the Union of Socialist Soviet Republics undertake to respect in all circumstances each other's sovereignty and territorial integrity and inviolability.

"Art. 3. Each of the two contracting powers undertakes to refrain from any act of aggression whatsoever against the other party.

"Should one of the contracting parties, despite its peaceful attitude, be attacked by one or several third powers, the other contracting party undertakes not to support the other third power or powers against the contracting party attacked."

The Soviet Government first proposed this formula, together with the settlement of differences by peaceful means, at the conference convened by it at Moscow for the limitation of armament in December, 1922. For an illuminating discussion of these treaties see Malbone W. Graham, "The Soviet Security Treaties," Vol. 23, *American Journal of International Law*, p. 336.

Paris pact," but all mutual aggression and armed conflict. The Soviet Union found Art. 1 of the pact lacking in precision and clarity and especially stated that there must be a ban "on such military actions as, for example, intervention, blockade, military occupation of foreign territories, of foreign ports, etc." It could not accept any of the written limitations in the diplomatic correspondence, especially par. 10 of the British note of May 19.

While maintaining that the absence of obligations concerning disarmament left the pact insufficient, it was a step in bringing that question forcibly before all those participating in it and, as a consequence, the Government of the Soviet Union was ready to adhere. Its formal instrument of adhesion was dated September 6, 1928.

2. Action of the American Senate

The adhesion of the Soviet Union was the first to be recorded, the instrument being filed September 27, 1928. In subsequent months several other states filed their adhesions, but all the signatories and most of the adherents postponed their formal action until after they were assured that the United States Senate would give its advice and consent to ratification of the treaty.

The general treaty was submitted to the Senate by the President on December 4, 1928. The accompanying message stated that the treaty was transmitted to the Senate by the President "with a view to receiving the advice and consent of the Senate to ratification" of it. He named the 15 signers and stated that 44 other Governments had informed the United States "that they have taken the necessary steps to adhere to the treaty or that they intend so to do." The indorsement "of 59 of the 64 independent nations of the world" had thus been given to "this new movement for world peace." Moreover, it was receiving consideration by the other five states, and the President had "no reason to believe that any of them will refuse in due course to become a party to the treaty." The cor-

respondence relating to the treaty was transmitted with its text, and President Coolidge concluded:[1]

> The fact that I approve of the treaty is well known. I hope that it may come into force with the least possible delay, and I should be pleased if the Senate would take such action during the present session as to enable the United States to ratify the treaty before the expiration of my term of office.

The treaty was referred to the Senate Committee on Foreign Relations, from which it was reported into open executive session of the Senate on December 19. While it was before the committee, the text and the correspondence were examined with great care and quite critically. Secretary of State Kellogg appeared before the committee on December 7 and 11, making statements and submitting to questioning.[2] Senators George H. Moses of New Hampshire and James A. Reed of Missouri took a position in committee that the treaty should not be passed by the Senate without being accompanied by a statement on the part of the Senate. They and three or four other members of the committee disclaimed any intention of nullifying the provisions of the treaty by adding reservations to it, but held that an "interpretative resolution was necessary to safeguard the interests of the United States." The President made public statements in favor of prompt action without any modifications. The chairman of the committee was ready to report the treaty to the Senate at any time, but delayed action in order to avoid disagreement on the floor of the Senate.

On December 14, Senator Moses, for himself and Senator Reed, asked unanimous consent in the Senate to submit a resolution for reference to the Committee on Foreign Relations which read:[3]

[1] *Congressional Record*, Vol. 70, Part 1, p. 25.

[2] For stenographic transcript of his testimony, see *United States Daily*, December 29, 31, 1928, and official print by Government Printing Office.

[3] *Congressional Record*, Vol. 70, Part 1, p. 599.

Resolved, That the Senate of the United States declares that in advising and consenting to the multilateral treaty it does so with the understanding —

(1) That the treaty imposes no obligation on the United States to resort to coercive or punitive measures against any offending nation.

(2) That the treaty does not impose any limitations upon the Monroe doctrine or the traditional policies of the United States.

(3) That the treaty does not impair the right of the United States to defend its territory, possessions, trade or interests.

(4) That the treaty does not obligate the United States to the conditions of any treaty to which the United States is not a party.

The committee continued until December 18, when an informal poll of the committee on the floor of the Senate and in the cloakrooms resulted in a decision to report the treaty to the Senate.[1]

On December 19, Senator Borah reported the treaty back to the Senate for the executive calendar. "At the same time," he said, "I am directed to report, without recommendation, a resolution which will also go to the executive calendar." [2] The resolution which he reported was a revision made in committee of the Moses-Reed text of December 14. As reported to the Senate, it read: [3]

Resolved, That the Senate of the United States declares that in advising and consenting to the multilateral treaty it does so with the understanding —

(1) That the treaty does not impair or abridge the right of the United States to defend its territory or other vital interests in accordance with traditional American policies.

(2) That the treaty imposes no obligation on the United States to resort to coercive or punitive measures against any offending nation.

(3) That the treaty does not obligate the United States to the conditions of any treaty to which the United States is not a party.

(4) The Secretary of State is requested to forward a copy of this resolution to the representatives of the other powers.

[1] The 18 members of the committee were reported as follows in the press: For, Borah, Capper, Edge, Fess, Gillett, Johnson and Reed of Pennsylvania, Republicans; Swanson, George, Harrison, Pittman, Robinson of Arkansas and Walsh of Montana, Democrats; Shipstead, Farmer Labor, total: 14; against, Baird and Reed of Missouri, Democrats, total: 2; present and not voting, Moses and McLean, Republicans. (*New York Times*, December 19, 1928.)

[2] *Congressional Record*, Vol. 70, Part 1, p. 851.

[3] *New York Times*, December 20, p. 7.

Formal Report and Passage

General debate continued on the floor of the Senate after the Christmas holidays from January 3 until January 10, the body recessing each evening rather than adjourning. This procedure had the effect of making the treaty continuously the unfinished business. On January 10, Senator Borah had the treaty read as a preliminary to the formal perfecting of a resolution of ratification. It was known from the start that the treaty would pass the Senate, this being evidenced by the fact that both political parties were in favor of accepting it, and, as a consequence, only individual Senators would vote against it. The strategy of the proponents was not that of winning or losing, but simply of the avoidance of running counter needlessly to the relatively few opponents.

The latter at no time sought reservations. If the resolution quoted above had been passed, it would have expressed the view of the Senate alone. Formal action by that body, however, was opposed by the President and Secretary of State on the ground that it was both unnecessary and would place the United States in a somewhat embarrassing position. The opponents then proposed that one step in considering a treaty, which had not been taken, should be resorted to. This was that a report defining certain features of the treaty should be made from the Committee on Foreign Relations. The resolution submitted by the committee with the treaty was "the reason no further report was made." [1] The proposal respecting a committee report was at first that it should be either transmitted to foreign Governments or approved and accepted by formal motion in the Senate. Such action was objected to on the same grounds as a Senate resolution. In order to secure an interpretative report, Senators Moses and Reed held conferences with their colleagues and secured agreement that no motions to either effect would be made. Senator Borah was not willing, "even with that pledge, to go forward and

[1] Senator Borah, January 14, *Congressional Record*, Vol. 70, Part 2, p. 1659.

bring in a report,"[1] because he felt that a report approved or transmitted to other parties "might be used to the injury of the treaty abroad." On the other hand, some 25 Senators had signed a statement circulated by Senator Bingham demanding such a report.[2]

On the morning of January 14, Senator Reed of Missouri had introduced a resolution as follows:[3]

> *Resolved*, That in view of the importance of the pending treaty (the so-called Kellogg-Briand treaty) and in view of the many different interpretations which have been placed upon said treaty by members of the Senate, and also in view of the fact that the Committee on Foreign Relations has not made any report giving its reasons for recommending ratification, the committee is respectfully requested to report to the Senate as soon as possible its views as to the proper interpretation of the treaty.

When the treaty came before the Senate later in the day, Senator Borah proposed a unanimous consent agreement to limit debate beginning the next day. There followed an extensive parliamentary discussion revolving around the acceptance of Senator Borah's motion, the position which Senator Reed's resolution would possess, the effect of recessing or adjourning, and other technicalities. The unanimous consent agreement was finally accepted, and, in the course of a review of the proceedings, it was made clear that Senators Bingham, Moses and Reed, who were insisting upon a report, no longer demanded that it be either transmitted abroad or approved by the Senate. The proceedings closed with that understanding.

On January 15, the Senate began with general debate. Senator Blaine called for an amendment to the resolution of ratification to the effect that advice and consent of the

[1] Senator Reed, January 14, *Congressional Record*, Vol. 70, Part 2, p. 1660.

[2] The statement, "signed by the 25 Senators and adhered to by others who did not care to affix their signatures," was as follows (*Congressional Record*, January 14, Part 2, p. 1666):

"We believe in the purposes and objectives of the Kellogg multilateral treaty. We believe that clarity of understanding regarding its inherent and declared functions is vital to its usefulness at home and abroad. To avoid reservations we believe the Foreign Relations Committee should report its official interpretation."

[3] *Congressional Record*, Vol. 70, Part 2, p. 1637.

Senate "is done with and in consideration of the understanding that any condition or reservation contained in the diplomatic notes exchanged during negotiations for the treaty shall not imply any admission of any reserve made in connection therewith and not a part of the text of the treaty." The resolution was rejected.

Senator Moses desired to withdraw his resolution, introduced December 19. Senator Harrison asked: "The resolution embodying the reservations?" Senator Moses replied, "No, embodying the understandings; there are no reservations any more."

Senator Borah had, during the morning, prepared a report from the Committee on Foreign Relations and now requested unanimous consent upon a time to vote. He then submitted the following report:[1]

"Your Committee on Foreign Relations reports favorably the treaty signed at Paris, August 27, 1928, popularly called the multilateral or Kellogg-Briand treaty. The two articles in this treaty are as follows:

"'ART. I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their relations with one another.

"'ART. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.'

"The treaty in brief pledges the nations bound by the same not to resort to war in the settlement of their international controversies save in bona fide self-defense and never to seek settlement of such controversies except through pacific means. It is hoped and believed that the treaty will serve to bring about a sincere effort upon the part of the nations to put aside war and to employ peaceful methods in their dealing with each other.

"The committee reports the above treaty with the understanding that the right of self-defense is in no way curtailed or impaired by the terms or conditions of the treaty. Each nation is free at all times and

[1] Executive Report No. 1, 70th Cong., 2d Sess., *Congressional Record*, January 15, Vol. 70, p. 1730. Senator Harrison commented that he judged "that the State Department had no objection to the filing of the report, but would object to its adoption." Senator Borah stated in reply, "I am proceeding on my own responsibility."

regardless of the treaty provisions to defend itself, and is the sole judge of what constitutes the right of self-defense and the necessity and extent of the same.

"The United States regards the Monroe doctrine as a part of its national security and defense. Under the right of self-defense allowed by the treaty must necessarily be included the right to maintain the Monroe doctrine, which is a part of our system of national defense. Bearing upon this question and as to the true interpretation of the Monroe doctrine as it has always been maintained and interpreted by the United States, we incorporate the following:

"'We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. . . . It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness.' (President Monroe's message December 2, 1823.)

"'The doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinct form of government.' (Message from President Cleveland, December 17, 1895.)

"'The doctrine is not international law, but it rests upon the right of self-protection, and that right is recognized by international law. The right is a necessary corollary of independent sovereignty. It is well understood that the exercise of the right of self-protection may, and frequently does, extend in its effect beyond the limits of the territorial jurisdiction of the State exercising it. . . . Since the Monroe doctrine is a declaration based upon this nation's right of self-protection, it can not be transmuted into a joint, or common, declaration by American states or any number of them.

"'It is to be observed that in reference to the South American governments, as in all other respects, the international right upon which the declaration expressly rests is not sentiment or sympathy, or a claim to dictate what kind of government any other country shall have, but the safety of the United States. It is because the new governments can not be overthrown by the allied powers without endangering our peace and happiness, that "the United States can not behold such interposition in any form with indifference.'" (Hon. Elihu Root, July, 1914.)

"'There are now three fundamental principles which characterize the policy of President Monroe as it was and as it is. First, the Monroe doctrine was a statement of policy originated and maintained by reason of self-interest, not of altruism. Second, it was justifiable by reason of the right of self-defense (which is a recognized principle of international law). Third, it called no new rights into being. Therefore, whenever it oversteps the principle of self-defense, reasonably interpreted, the right disappears and the policy is questionable because it

then violates the rights of others. . . . The Monroe doctrine is based upon the right of self-defense. This is the first law of nations as of individuals.' (Professor Theodore Woolsey, June, 1914.)

"The committee further understands the treaty does not provide sanctions, express or implied. Should any signatory to the treaty or any nation adhering to the treaty violate the terms of the same, there is no obligation or commitment, express or implied, upon the part of any of the other signers of the treaty to engage in punitive or coercive measures as against the nation violating the treaty. The effect of the violation of the treaty is to relieve the other signers of the treaty from any obligation under it with the nation thus violating the same.

"In other words, the treaty does not, either expressly or impliedly, contemplate the use of force or coercive measures for its enforcement as against any nation violating it. It is a voluntary pledge upon the part of each nation that it will not have recourse to war except in self-defense, and that it will not seek settlement of its international controversies except through pacific means. And if a nation sees proper to disregard the treaty and violate the same, the effect of such action is to take it from under the benefits of the treaty and to relieve the other nations from any treaty relationship with the said power.

"This treaty in no respect changes or qualifies our present position or relation to any pact or treaty existing between other nations or governments.

"This report is made solely for the purpose of putting upon record what your committee understands to be the true interpretation of the treaty, and not in any sense for the purpose or with the design of modifying or changing the treaty in any way or effectuating a reservation or reservations to the same."

The treaty was then read and passed article by article, and the Senate by a vote of 85 to 1, with nine Senators not voting,[1] passed the following resolution:[2]

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive A, 70th Congress, Second Session, a multilateral treaty for renunciation of war, signed in Paris August 27, 1928.

The belated report from the Committee on Foreign Relations was a summary of Senator Borah's introducing

[1] The Senate at the moment the vote was taken consisted of 95 members. It was stated by their colleagues on behalf of eight of those not voting that they would have voted yea if they had been present. On behalf of Senator Guy D. Goff of West Virginia no statement was made, nor was he regarded as present. Senator John J. Blaine of Wisconsin was the only Senator recorded in the negative.

[2] *Congressional Record*, Vol. 70, Part 2, p. 1731.

speech, or at least the net conclusions of it. Senators in debating on the floor held many views, depending upon their general outlook, the relative emphasis they laid upon Art. 1 or Art. 2 of the treaty, their attitude toward the good faith of other countries or toward international institutions such as the League of Nations and the Permanent Court of International Justice, as well as upon their belief or disbelief in the efficacy of naval power. Senator Borah stated that "the active virtue of the treaty lies in Art. 2," which "expresses its real object and scope." Senator Reed of Missouri defined the document as "an international kiss." Several Senators regarded the so-called British reservation as of great importance and some expressed distrust as to how it might be interpreted in the future. The Monroe doctrine was generally discussed, but extreme claims under it were notably lacking, and the statement concerning it in the Borah report very accurately reflects the views held concerning its meaning. The widest differences of opinion existed among the speakers as to the value of the treaty. Some regarded it as epoch-making in itself, others as futile because it provided no pledge of enforcement and still others that it had been "analyzed by its proponents practically into disintegration." [1] A widespread feeling existed that it was desirable to vote for the treaty because "its defeat will psychologically be a bad thing." [2]

3. Soviet Union Negotiates Moscow Protocol

On December 29, 1928, Maxim Litvinov, the Soviet commissar for foreign affairs, proposed to Poland as one of the signatories of the pact that they sign a protocol to bring it into force between them immediately following their own ratifications, without awaiting the entrance of the pact itself into force. An analogous proposal was made simultaneously to Lithuania, which had adhered to the pact, and would be made to Estonia, Finland and

[1] Senator Johnson, January 15, *Congressional Record*, Vol. 70, Part 2, p. 1728.
[2] Senator Glass, *Ibid.*, p. 1728.

Latvia as soon as they did so. In making this proposal, the Soviet Union called attention to its convocation of a disarmament conference in 1922 and recalled to Poland that it had taken the initiative on August 24, 1926, in proposing that the two Governments negotiate a treaty of nonaggression,[1] a proposal which still remained open.

On January 10, the Polish chargé d'affaires at Moscow replied to the Soviet note. Poland, after serious study, accepted the proposal in principle, provided it was agreeable to the other signatories of the Paris pact for it to do so. The Warsaw Government hoped to have assurances on this point without delay. Poland was astonished that the Soviet Union had omitted making its proposal also to Finland, Estonia, Latvia and Rumania and that it had on the other hand sent it to Lithuania, which has no common frontier with the Union and which, as the Soviet Government was aware, refuses to maintain diplomatic relations with Poland. The Warsaw Government recalled to the Soviet Union "that it has always maintained the prime necessity of discussing the problem of security in Eastern Europe, with all the interested states, for only in that way can effective guaranties be obtained for the maintenance of peace in that part of the world." [2]

In his reply of January 11, M. Litvinov explained that his reason for sending the proposal to Lithuania alone among the Baltic states was due to the fact that Lithuania was the only one of them which had then formally adhered to the treaty. He had, as a matter of fact, discussed the matter with their diplomatic representatives, but had not yet succeeded in assuring himself of the attitude of those states which, in any case, were not adjacent to Poland. As to Rumania, the Soviet Union pointed out that diplomatic relations did not exist between the two countries; but, in adhering to the Paris pact, the Moscow Government had taken full account of the fact that the similar adherence of Rumania to it involved also a mutual

[1] *Le Temps*, January 2–3, 1929; *Soviet Union Review*, VII, p. 30; *L'Europe Nouvelle*, March 9, 1929, p. 321 *ff*.

[2] *Le Temps*, January 12, p. 1.

undertaking with respect to Bessarabia. This was "the obligation of renouncing war methods as an instrument for the settlement of differences from the time when Rumania should have adhered to the pact, notwithstanding that the latter does not eliminate litigious questions existing between the two countries." The Soviet Union was entirely willing to accept this obligation under its own protocol and did not consider the momentary absence of Rumania from the negotiations as an adequate reason for Poland's hesitating in accepting it.[1]

The Rumanian minister of foreign affairs, Georges Mironescu, on January 14 answered an interpellation on the Government's attitude toward the Russian proposal. The Soviet protocol, he said, would have no object as soon as the pact itself was ratified, and Rumania intended to take that action as soon as possible. On the other hand, Rumania had never committed an aggression itself and expected nothing from war. The Rumanian foreign minister stated that what he regarded as Soviet reservations [2] "deeply undermine the various clauses of the pact." This was because of the Soviet interpretation of the word "war," to which is given a much wider sense than is generally understood in other states. "All military action such as intervention or a blockade, as well as the armed occupation of a foreign territory, even the refusal of normal pacific relations or the simple interruption of these relations, are considered by the Soviets as falling within the definition of the idea of war." [3]

The protocol itself was signed at Moscow on February 9, 1929,[4] by the representatives of Estonia, Latvia, Poland, Rumania and the Soviet Union. The chief effect of this action was the creation of a new attitude in Eastern Europe, expressed as follows by the Rumanian foreign minister to his parliament as the spokesman of the country principally

[1] *Le Temps*, January 13, p. 8; *L'Europe Nouvelle, loc. cit.*, p. 323.

[2] See the note of August 31, 1928, *infra*, p. 167 [387].

[3] *Le Temps*, January 16, p. 2.

[4] For the text see Appendix, p. 177 [397].

concerned in the Bessarabian question: "The rumors concerning an eventual attack by Poland and Rumania against Russia or an attack on these two countries by Russia have created a state of uncertainty resulting in unfavorable political and economic consequences. By the signature of the protocol, the peoples of this part of Europe are solemnly pledged not to resort to war and to settle their differences by peaceful methods."

An exchange of notes between the Soviet and Turkish Governments on February 26–27 resulted in Turkey adhering to the protocol, since "the initiative corresponds in all respects to the peaceful policy which Turkey persistently and sincerely pursues." [1] Invitations were issued to Finland and Persia following their formal action on the Paris treaty, and were accepted.

The protocol by April 15 was in force between eight states, the Soviet Union and seven of its neighbors, Estonia, Finland, Latvia, Persia, Poland, Rumania and Turkey.[2] The protocol was registered with the Secretariat of the League of Nations by Poland on May 16, 1929.

4. Ratifications and Adhesions

The number of states signing or invited to adhere to the Paris pact was the largest ever called upon to adopt a single important treaty at substantially the same time. It was, therefore, inevitable that the procedure of ratification under widely varying constitutional systems should attract some attention. By the terms of the treaty its entrance into force depended upon the deposit of the ratifications of all the 15 signatory states. The instruments of adhesion of the 47 states accepting invitations to become parties to the treaty corresponded in effect to the instruments of ratification of the signatories. They became effective on the entrance of the treaty into force or subsequently on the date of their deposit.

[1] *Soviet Union Review*, VII, p. 57.

[2] M. Litvinov at session of Preparatory Commission for the Disarmament Conference.

States invited to adhere on August 27 began completing their adhesions forthwith. The first of these to deposit an adhesion was the Union of the Socialist Soviet Republics, where the document of September 6 needed only the approval of the praesidium of the Central Executive Committee. Altogether, some 11 adhesions had been effected by the time the United States Senate had advised and consented to ratification.

The United States Senate passed its resolution on January 15, and on January 17 the President formally ratified the treaty. This fact was cabled to all of the signatories, which immediately set their appropriate machinery to work.

The most interesting ratification was the collective one of the members of the British Empire. This collective ratification was made on behalf of His Britannic Majesty acting on the advice of the several Governments of His Majesty. The ratifications of the five self-governing dominions were authorized by parliamentary action. Respecting the ratification of the United Kingdom of Great Britain and Northern Ireland, the Secretary for Foreign Affairs made this statement in the House of Commons on January 28: "The opinion of both Houses of Parliament from the first declared itself so strongly in favor of ratification, and this view was so unanimously expressed in the course of the debates which have already taken place, that any further discussion of the treaty appears to His Majesty's Government unnecessary."

In France, the treaty did not constitutionally require action by Parliament. However, the Government desired to give added weight to the executive ratification by an expression of parliamentary approval. The treaty was submitted to the Chamber, which on March 1 voted for it 570 to 12, while the Senate vote on March 29 was unanimous.

In Japan, an opposite situation arose, a question of constitutionality being raised, because the treaty was held to be disrespectful to the Emperor. By the Japanese con-

stitution, the Emperor, not the people, is the sovereign and the words "in the name of their respective peoples" of the pact were argued to be in conflict with the imperial prerogative in treaty making, the Japanese word "people" having the distinct meaning of "subjects" rather than referring to the nation collectively. Ratification of the treaty depended upon the advice of the Privy Council, in which the controversy continued from mid-February to June 26.[1]

The other signatories all ratified following parliamentary sanction, with the exception of Italy, where the document was made effective solely by royal decree.

The procedure in the adhering states varied all the way from Ethiopia, where the emperor acted solely in his own right, to Switzerland, where the constitutional situation was quite complicated. The Federal Council's message[2] on the treaty stated that, since it was not limited as to duration, the document was subject to referendum, if the requisite popular petition was presented. If an authorizing law were passed by the Federal Assembly, it would be necessary to wait 90 days for the referendary period to expire. To avoid such a delay the Federal Council asked that no law be passed but that the two chambers empower it to notify "Washington of the adhesion of Switzerland when it deems this opportune." The requisite parliamentary action was completed on June 6, 1929.

The Senate of the Free City of Danzig decided on May 1, 1929, on its own motion, to adhere to the treaty.

The several stages of action on the treaty with respect to each signatory or adhering state as of June 1, 1929, is given in the following table:

[1] The text of the declaration, referred to in the instrument of ratification of June 27, reads:

"The Imperial Government declare that the phraseology 'in the names of their respective peoples,' appearing in Art. 1 of the treaty for the renunciation of war, signed at Paris on August 27, 1928, viewed in the light of the provisions of the Imperial Constitution, is understood to be inapplicable in so far as Japan is concerned."

[2] *Le Temps*, December 22, 1928.

Status of General Treaty for Renunciation of War

(Corrected to July 24, 1929)

An asterisk (*) denotes signatory parties.

	Invited	Signed, or Signified Intention to Adhere	Parliamentary Action	Ratification or Adhesion	Deposit or Receipt	In Force
	1928					
Afghanistan	Aug. 27	Nov. 5, '28		Oct. 3, '28	Nov. 30, '28 [1]	July 24, '29
Albania	Aug. 27		Dec. 17, '28	Dec. 27, '28	Feb. 13, '29 [1]	July 24, '29
Argentina	Aug. 27					
*Australia	May 22	Aug. 27, '28		Feb. 1, '29	Mar. 2, '29	July 24, '29
Austria	Aug. 27	Aug. 29, '28		Nov. 28, '28	Dec. 31, '28 [1]	July 24, '29
*Belgium	June 23	Aug. 27, '28	Mar. 12, '29 Mar. 13, '29	Mar. 14, '29	Mar. 27, '29 [1] [2]	July 24, '29
Bolivia	Aug. 27					
Brazil	Aug. 27					
Bulgaria	Aug. 27	Sept. 6, '28	May 24, '29		July 24, '29	July 24, '29
*Canada	May 22	Aug. 27, '28	Feb. 22, '29 Feb. 15, '29	Feb. 19, '29	Mar. 2, '29	July 24, '29
Chile	Aug. 27	Jan. –, '29				
China	Aug. 27	Sept. 12, '28	Feb. 18, '29	Mar. 8, '29	May 8, '29 [1]	July 24, '29
Colombia	Aug. 27	Signified				
Costa Rica	Aug. 27	Aug. 30, '28	July 23, '29		[2]	

[1] The effective date of deposit for adherents is the date of entrance into force; the date given is that of receipt by the Department of State.

[2] Ad referendum.

STATUS OF GENERAL TREATY FOR RENUNCIATION OF WAR — *Continued*

	Invited	Signed, or Signified Intention to Adhere	Parliamentary Action	Ratification or Adhesion	Deposit or Receipt	In Force
	1928					
Cuba	Aug. 27	Aug. 28, '28	Dec. 13, '28	Mar. 6, '29	Mar. 13, '29 [1]	July 24, '29
*Czechoslovakia	June 23	Aug. 27, '28		Jan. 23, '29	Mar. 2, '29	July 24, '29
Danzig			Apr. 30, '29			
Denmark	Aug. 27	Aug. 29, '28	Mar. 1, '29	Mar. 2, '29	Mar. 23, '29 [1]	July 24, '29
Dominican Republic	Aug. 27	Sept. 5, '28	Oct. 18, '28	Nov. 12, '28	Dec. 12, '28 [1]	July 24, '29
Ecuador	Aug. 27	Nov. 11, '28				
Egypt	Aug. 27	Sept. 3, '28		Mar. 28, '29	May 9, '29 [1]	July 24, '29
Estonia	Aug. 27	Sept. 3, '28	Feb. 8, '29		July 24, '29	July 24, '29
Ethiopia	Aug. 27	Sept. 4, '28		Oct. 28, '28	Nov. 28, '28 [1]	July 24, '29
Finland	Aug. 27	Sept. 4, '28	Mar. 22, '29	Adhesion	July 24, '29	July 24, '29
*France	Proposed [2]	Aug. 27, '28	Mar. 1, '29 Mar. 29, '29	Apr. 6, '29	Apr. 22, '29	July 24, '29
*Germany	Apr. 13	Aug. 27, '28	Feb. 6, '29	Feb. 12, '29	Mar. 2, '29	July 24, '29
*Great Britain	Apr. 13	Aug. 27, '28		Jan. 28, '29	Mar. 2, '29	July 24, '29
Greece	Aug. 27	Sept. 7, '28	Feb. 14, '29		†	†
Guatemala	Aug. 27	Sept. 7, '28	Approved		May 14, '29 [3]	July 24, '29
Haiti	Aug. 27	Sept. 5, '28		Adhesion		
Honduras	Aug. 27	Sept. 4, '28	Mar. 1, '29	May 9, '29	†	†
Hungary	Aug. 27	Oct. 11, '28	June 19, '29	July 6, '29	July 24, '29	July 24, '29
Iceland	Aug. 27	Oct. 29, '28		May 14, '29		July 24, '29
*India	May 22	Aug. 27, '28		Feb. 1, '29	Mar. 2, '29	July 24, '29

*Irish Free State	May 22	Aug. 27, '28	Feb. 21, '29 Feb. 22, '29	Feb. 19, '29	Mar. 2, '29	July 24, '29
*Italy	Apr. 13	Aug. 27, '28	Jan. 31, '29	Feb. 11, '29	Mar. 2, '29	July 24, '29
*Japan	Apr. 13	Aug. 27, '28	June 26, '29	June 27, '29	July 24, '29	July 24, '29
Latvia	Aug. 27	Sept. 4, '28	Feb. 12, '29		July 24, '29	July 24, '29
Liberia	Aug. 27			Dec. 3, '28 [1]	Feb. 23, '29 [1]	July 24, '29
Lithuania	Aug. 27	Aug. 28, '28	Jan. 22, '29	Jan. 22, '29	Apr. 5, '29 [1] [3]	July 24, '29
Luxemburg	Aug. 27	Aug. 31, '28 [3]				
Mexico	Aug. 27	Sept. 15, '28				
Netherlands	Aug. 27	Aug. 31, '28	Mar. 2, '29 Apr. 25, '29	May 11, '29	July 24, '29	July 24, '29
*New Zealand	May 22	Aug. 27, '28		Feb. 1, '29	Mar. 2, '29	July 24, '29
Nicaragua	Aug. 27	Sept. 17, '28	Mar. 8, '29	Apr. 17, '29		July 24, '29
Norway	Aug. 27		Feb. 15, '29	Feb. 22, '29	Mar. 26, '29 [1]	July 24, '29
Panama	Aug. 27	Aug. 31, '28	Dec. 14, '28	Jan. 18, '29	Feb. 25, '29 [1]	July 24, '29
Paraguay	Aug. 27	Signified			Nov. 12, '28 [3]	
Persia	Aug. 27	Nov. 23, '28	Apr. 17, '29	Adhesion	July 25, '29	July 25, '29
Peru	Aug. 27	Aug. 27, '28	July 4, '29		July 24, '29	July 24, '29
*Poland	June 23	Aug. 27, '28	Feb. 7, '29	Mar. 1, '29	Mar. 25, '29	July 24, '29
Portugal	Aug. 27	Sept. 4, '28		Nov. 22, '28	Mar. 1, '29 [1]	July 24, '29
Rumania	Aug. 27	Sept. 4, '28	Jan. 31, '29 Feb. 1, '29	Mar. 4, '29	Mar. 21, '29 [1]	July 24, '29
Salvador	Aug. 27	Oct. 2, '28				

[1] The effective date of deposit for adherents is the date of entrance into force; the date given is that of receipt by the Department of State.

[2] Bilateral draft of June 10, 1927.

[3] Ad referendum.

† Instrument of adhesion en route to Washington July 24, 1929, for immediate deposit.

STATUS OF GENERAL TREATY FOR RENUNCIATION OF WAR — *Concluded*

	Invited	Signed, or Signified Intention to Adhere	Parliamentary Action	Ratification or Adhesion	Deposit or Receipt	In Force
	1928					
Serb-Croat-Slovene State	Aug. 27	Sept. 4, '28		Jan. 28, '29	Feb. 26, '29 [1]	July 24, '29
Siam	Aug. 27	Sept. 18, '28		Oct. 15, '28	Jan. 17, '29 [1]	July 24, '29
*South Africa	May 22	Aug. 27, '28	Jan. 28, '29	Feb. 1, '29	Mar. 2, '29	July 24, '29
Soviet Union	Aug. 27	Aug. 31, '28		Sept. 6, '28	Sept. 27, '28 [1]	July 24, '29
Spain	Aug. 27	Sept. 11, '28	Feb. 18, '29	Feb. 21, '29	Mar. 7, '29 [1]	July 24, '29
Sweden	Aug. 27	Sept. 3, '28	Feb. 19, '29 Mar. 16, '29	Mar. 22, '29	Apr. 12, '29 [1]	July 24, '29
Switzerland	Aug. 27	Aug. 30, '28	June 5–6, '29		†	†
Turkey	Aug. 27	Sept. 9, '28	Jan. 19, '29	Adhesion	July 24, '29	July 24, '29
	1927					
*United States	June 20	Aug. 27, '28	Jan. 15, '29	Jan. 17, '29	Mar. 2, '29	July 24, '29
	1928					
Uruguay	Aug. 27	Aug. 31, '28				
Venezuela	Aug. 27	Sept. 14, '28			†	†

[1] The effective date of deposit for adherents is the date of entrance into force; the date given is that of receipt by the Department of State.

† Instrument of adhesion en route to Washington on July 24, 1929, for immediate deposit. The period in which a referendum may be invoked in Switzerland expires September 5, 1929.

IV. AMERICAN SYSTEM OF PACIFIC SETTLEMENT

The condemnation of "recourse to war for the solution of international controversies" and its renunciation "as an instrument of national policy" in Art. I of the anti-war treaty, are declarations by the contracting states "in the names of their respective peoples." They were enunciated solemnly as an ideal intended to be "arresting and appealing just because of its purity and simplicity."[1] Those declarations would be only of academic interest without further action to apply peaceful methods to settle disputes no longer properly referred to the method of war. Art. II of the treaty supplies such an obligation, for by it the "parties agree that the settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

The pledge taken is, therefore, complete; but it does not contain the mechanism for realizing its purposes. The treaty can not be viewed by itself; it must be considered in connection with the systems of pacific settlement established by the states parties to it. Otherwise, its solemn pledges will appear to be more like pious wishes than serious engagements. The extent to which methods of pacific settlement control the relations between the contracting countries other than the United States has been described.

In December, 1927, when the United States replied to the French proposal, the arbitration treaty with France originally signed in 1908 was within a few months of expiration. That treaty was of the obsolescent type, excepting "national honor and vital interest" from its

[1] Mr. Kellogg's note of February 27, 1928, p. 109 [329].

operation. The United States at that time submitted separately a draft of a new treaty, which was signed on February 6, 1928, three weeks before the expiration of the old treaty. One of the Bryan treaties for the advancement of peace was in force with France so that the negotiation of the anti-war treaty proceeded with the combination of arbitration and conciliation treaties covering all possible disputes already in existence between the two countries.

Simultaneously, the United States began to perfect a system of pacific settlement treaties. In December, 1927, it had in force 13 bilateral arbitration treaties of the obsolescent 1908 style, 18 bilateral treaties for the advancement of peace (conciliation), the limited Central American conciliation convention of February 17, 1923, and the Pan American treaty of May 3, 1923, to prevent or avoid conflicts (conciliation). In February the resolution of the Pan American Habana Conference passed to the United States the duty of being host and of managing the Conference on Conciliation and Arbitration, which met in Washington December 10, 1928, to January 5, 1929. Of these treaties, those for the advancement of peace (conciliation) were in force until positive action should be taken denouncing them. Five of the arbitration treaties are in force until denounced,[1] and eight were due to expire within the period between February 27, 1928, and September 27, 1931.[2] The Central American treaty may continue in force beyond the initial 10-year period ending June 13, 1935. The Pan American convention remains in force indefinitely.

The Department of State, with these facts under its eye, began to recast its pacific settlement machinery by seeking to establish the French arbitration treaty as its standard for that type and by negotiating conciliation treaties to accompany them.

[1] Those with Brazil, Ecuador, Haiti, Peru and Uruguay.

[2] As follows: France, February 27, 1928; Great Britain, June 24, 1928; Japan, August 24, 1928; Liberia, September 27, 1931; Netherlands, March 25, 1929; Norway, June 24, 1928; Portugal, November 14, 1928; Sweden, March 18, 1930.

New Arbitration Treaty

The signing of the French arbitration treaty at Washington on February 6, 1928, marked the end of the period when the United States restricted arbitration to questions not involving "national honor and vital interest." It set up for the United States a new type of arbitral engagement which, in conjunction with conciliation treaties, is intended to furnish the mechanism for the pacific settlement of all international disputes as the consequence of renunciation of war. That treaty reads: [1]

The President of the United States of America and the President of the French Republic,

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have happily existed between the two nations for more than a century;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them;

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the powers of the world;

Having in mind the treaty signed at Washington on September 15, 1914, to facilitate the settlement of disputes between the United States of America and France;

Have decided to conclude a new treaty of arbitration enlarging the scope of the arbitration convention signed at Washington on February 10, 1908, which expires by limitation on February 27, 1928, and promoting the cause of arbitration and for that purpose they have appointed as their respective plenipotentiaries:

The President of the United States of America:

Mr. Robert E. Olds, Acting Secretary of State, and

The President of the French Republic:

His Excellency, Mr. Paul Claudel, Ambassador Extraordinary and Plenipotentiary of the French Republic to the United States, who having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

[1] Treaty Series No. 785. The treaty entered into force April 22, 1929.

ARTICLE I. Any disputes arising between the Government of the United States of America and the Government of the French Republic, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report, as prescribed in the treaty signed at Washington, September 15, 1914, to the permanent international commission constituted pursuant thereto.

ART. II. All differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the above mentioned permanent international commission and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by and with the advice and consent of the Senate thereof, and on the part of France in accordance with the constitutional laws of France.

ART. III. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the high contracting parties,

(*b*) involves the interest of third parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine,

(*d*) depends upon or involves the observance of the obligations of France in accordance with the Covenant of the League of Nations.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the President of the French Republic in accordance with the constitutional laws of the French Republic.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless terminated by one year's written notice given by either high contracting party to the other.

In faith thereof, the respective plenipotentiaries have signed this

treaty in duplicate in the English and French languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the sixth day of February in the year of Our Lord one thousand nine hundred and twenty-eight.

ROBERT E. OLDS. (Seal)
CLAUDEL. (Seal)

Considerable interest was attached to the attitude which the Senate might take upon the treaty. The Senate Committee on Foreign Relations examined the text with care and invited the Secretary of State to explain its provisions. One difficulty arose and was solved in consultation with the Secretary of State in a statesmanlike manner. Art. 1 of the treaty made clear the application of the arbitral (or judicial) and the conciliation jurisdictions to all disputes. It specifically mentions the subsisting conciliation treaty, which contains no exceptions from its jurisdiction. Art. 3 intends to contain exceptions from the arbitral procedure, but stipulates that "the provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which is within those exceptions." The question raised was whether that language would serve to except subjects from the jurisdiction of the 1914 conciliation treaty. That was clearly not the intention of the negotiators. There was considerable suspicion among the well-informed that the Senate would take advantage of the defective drafting to attempt to limit the conciliation treaties, and thus destroy the prospects of the developing program. Such suspicions were needless. The Senate on March 6 advised and consented to the ratification of the treaty without any change, but after an exchange of notes with France had taken place confirming that the new treaty did not "in the slightest degree" affect or modify the provisions of the treaty signed September 15, 1914.

CHANGES IN ARBITRAL SCOPE

As the simultaneous existence of the arbitration and conciliation treaties with the same states constitutes the

foundation on which the United States is placing its system of pacific settlement for the renunciation of war, it is appropriate to appraise the arbitration treaty as the newer element. The treaty is a new form of the limited arbitration treaty, and represents a technical improvement over its predecessors of 20 years before. As the contracting parties state in the preamble that they are "eager by their example . . . to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the powers of the world," it may be assumed that they foresee the time when they will substitute a more perfect arbitration treaty for the present engagement.

Art. I of the French treaty relates to the jurisdiction of the permanent international commission of conciliation established by the existent Bryan treaty. For purposes of clarity, it has been omitted in treaties subsequently signed. It is, however, certain that the arbitration and conciliation treaties are to be read together, even if not connected by their terms.

It will be remembered that President Taft in 1911 negotiated arbitration treaties distinguishing between justiciable and nonjusticiable disputes. It is interesting to note that the article of the new American treaties defining the arbitral jurisdiction is identic with the Art. I, par. 1, of the 1911 Taft treaties,[1] with a few drafting changes. The only significant change is that the new article is not

[1] *Arbitration and the United States*, World Peace Foundation Pamphlets, Vol. IX, Nos. 6–7, p. 526. The suggestion of using this formula was made as early as September, 1926. Except for the reference to procedure under Art. I in the Franco-American text, the new treaty conforms to the 1911 phraseology except as indicated by italics below:

"Art. I. All differences *hereafter arising between the high contracting* parties, which it has not been possible to adjust by diplomacy, relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the convention of October 18, 1907, or to some other arbitral tribunal, as shall (may) be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define the *scope of the* powers *of the arbitrators*, the question or questions at issue, and settle the terms of reference *and the procedure thereunder*.

confined to "differences hereafter arising between the high contracting parties."

The United States Senate continues to insist upon defining the question at issue in any arbitral case which arises. The special agreement for each case is viewed as a treaty, subject to the advice and consent of the Senate. The language gives the other party the same reciprocal right; but the United States is the only country where a legislative opinion upon the arbitral character of a question is required in practice. Competent American opinion — the latest expression being by former Secretary of State Hughes — regards such a provision as unnecessary and unfortunate; but Senatorial opinion on the point is not likely to change until the public so demands.

The article devoted to exceptions represents an improvement, though raising some questions of its own. The 1908–09 American treaties excepted from arbitration questions which affect "the vital interests, the independence or the honor of the two contracting states" and "the interests of third parties." Twenty years ago it was only an extra precaution that led to the inclusion of the independence of a state as an exception from arbitration, for it was already recognized that questions of national independence were not cognizable any more than an individual's essential liberty is cognizable by municipal courts. The terms "honor and vital interest" were used in the Hague convention of 1899, because nothing better presented itself to the mind of Feodor Martens, the Russian jurisconsult, in securing international recognition for the commission of inquiry. However, since Secretary of State Knox in 1912 aptly stated that the terms "are not justiciably definable and mean whatever the particular nation involved declares them to mean," they have been obsolescent and completely discontinued outside of Anglo-Saxon countries.

In the new treaties there are four exceptions to arbitral jurisdiction. The first is questions "within the domestic jurisdiction of either of the high contracting parties."

In a way, the exception covers about the same subject matter as was intended to be covered by "national honor and vital interest." The new exception is, however, capable of exact and objective international definition at any given time and consequently need not cramp arbitral development. Moreover, as conditions change, questions once regarded as entirely domestic may be given an international aspect, according to the wisdom of the time. Of course, recognized domestic questions are legitimately excluded from international cognizance. The same exception is included in the Covenant of the League of Nations respecting the Council's handling a dispute, but there a definite method exists for arriving at an international determination of the claim.

The second exception is questions "involving the interests of third parties." This exception is implied in any treaty, and it is largely a matter of opinion whether its inclusion is a linguistic tautology. It scarcely restricts jurisdiction, its practical effect being rather to bring another party into an arbitration than to prevent an arbitration taking place.

The third exception excludes subject matter which "depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine." This provision has an interest of its own. The United States has insisted that the Monroe doctrine was "to be interpreted by the United States alone," this having been officially insisted upon as late as the Fifth International Conference of American States at Santiago, Chile, in 1923. It is obvious that technically the mention of the Monroe doctrine as an exception from arbitration makes its contents a legitimate subject of consideration in the negotiations of parties to bilateral treaties, from the operation of which it is excluded. The other party is at least entitled to know why the United States should hold that a given series of events depends upon or involves the doctrine, if the United States should claim that those events were not arbitrable on that account. The contents of the doctrine

had not been satisfactorily determined by the United States Government when the Franco-American treaty was made. In the course of years various presidents had restated it and added corollaries, while presidents and secretaries of state on public, but unofficial, occasions had described it without defining it. Compared with the discussion of it and the deductions of policy derived from it by publicists, the doctrine has been seldom cited as an actual basis of official action.

In anticipation of a Senate debate on the relation of the doctrine to the Paris treaty, the Under-Secretary of State, J. Reuben Clark, Jr., prepared a memorandum which was available to the Senate Committee on Foreign Relations. Drawing a conclusion from this, Senator Borah in his report on that treaty stated:

> The United States regards the Monroe doctrine as a part of its national security and defense. Under the right of self-defense allowed by the treaty must necessarily be included the right to maintain the Monroe doctrine, which is a part of our system of national defense.

And he further quoted an authority with approval:

> Whenever it oversteps the principle of self-defense, reasonably interpreted, the right disappears and the policy is questionable because it then violates the rights of others . . . The Monroe doctrine is based upon the right of self-defense. This is the first law of nations as of individuals.

The fourth exception is of subject matter "which depends upon or involves the observance of the obligations of France [etc.] in accordance with the Covenant of the League of Nations." The document in question is a specific text. The exception would apply only in case of action affecting American interests; but the other bilateral contractant must depend upon its fellow Members of the League for the meaning to be given to the document, in other words, upon an international decision.

The previous treaties were made for five-year periods. The new series will "remain in force continuously unless

and until terminated by one year's written notice." This gives certainty of relationship and at the same time flexibility, when revision is decided upon.

The United States was intrusted by a resolution of the Sixth Pan American Conference with convening a conference on conciliation and arbitration, which was to consider the establishment of compulsory arbitration. The conference was held from December 10, 1928, to January 5, 1929. It produced a conciliation convention, which was intended to complete the convention of Santiago of May 3, 1923, and it also produced an arbitration treaty. In this treaty the contracting parties bind themselves to submit to arbitration all differences of an international character which have arisen or may arise between them by virtue of a claim of right and which are susceptible of decision "by the application of the principles of law." Such juridical questions are defined as those embodied in the four categories to which the compulsory jurisdiction of the Permanent Court of International Justice applies. However, questions within the domestic jurisdiction of a party and which "are not controlled by international law," as well as those affecting interests of states not parties to the treaty, are excepted in general. The 20 signatories to this treaty were at liberty to specify additional exceptions in signing it. Many of them exercised this right.

Appointment of Conciliation Commissioners

The Bryan "treaties for the advancement of peace" of 1913–14, as has been stated, introduced into international relations a most fruitful formula. One of the essential conditions for realizing the purpose of all of them was the constant maintenance of the commission so that, in case of dispute, no subsidiary problem should arise as to the personnel of the commission. The commissions "shall be composed of five members;" they "shall be appointed" within a certain period; and "vacancies shall be filled." As a matter of fact, the commissions under the series of

21 treaties in force up to 1921 were never completed. While Mr. Bryan was Secretary of State, the appointment of commissioners went on apace, but from 1916 onward, the Department of State apparently completely forgot their existence. In 1926, an inquiry at the Department in person for a list of the commissioners necessitated rummaging for a list which, when found, was identical with one furnished for publication in 1916. Commissioners died without the fact apparently being known to either Government concerned.

The machinery for pacific settlement possessed by the United States was rusting out, and the Government paid no attention. Fortunately, in 1927, the Department of State definitely took hold of the task of completing the commissioners, and on May 12, 1928, the Department issued a list of appointees on behalf of the United States, which completed the system so far as its commissioners were concerned. Active negotiations for the appointment of joint commissioners and the completion of all appointments were under way, and the Department made definite provision for supervising future appointments as they might become necessary.

Network of Treaties

From the point of view of making the renunciation of war feasible through progress in pacific settlement, it is the spread of the network and the inclusive combination of the arbitration and conciliation treaties that is significant. Since the United States actually has under way negotiations with practically all its peers in the family of nations, the quantitative progress respecting bilateral treaties made speaks for itself. The value of the two treaties in combination justifies a word.

The limitations of the 1928 arbitration treaty, taken together in a technical sense, are only slightly less than those of the preceding formula of 1908. This is believed not to be of much practical importance. Whatever the

exceptions imply, they correspond closely to the present facts of American political relationships and policies. The primary consideration is to have a peace system co-extensive with the range of disputes which may afford cause for war. The conciliation treaty is applicable to all differences which are not settled by diplomacy and which are not referred to arbitration, so that the system covers all possible war-breeding disputes between the parties. The exceptions to arbitration consequently mark a potential dividing line between methods employed for all disputes rather than a dividing line between disputes to be settled and those not to be settled by pacific means. Assuming mutual confidence and public support of the system, the most appropriate method is likely to be employed irrespective of the technical stipulations. The system opens the opportunity for the further development of arbitration and judicial settlement.

The coordinate parts of the treaty-making power in the United States are committed to the present program of pacific settlement, in the form of the arbitration treaty described and the old and standard form of conciliation treaty. The Department of State, therefore, immediately undertook negotiations with states with which arbitration treaties were particularly desired by reason of approaching expirations, and let it be known that it was willing to make arbitration treaties of the new type, as well as conciliation treaties, with any other states. Thus, the United States is recasting its mechanism of pacific settlement on a bilateral basis. This attitude met with response, and a large number of negotiations was begun. When completed, this network of treaties will be the mechanism by which the United States intends to give reality to the pledge of Art. II of the Briand-Kellogg treaty never to seek the solution of any disputes whatever except by pacific means.

The treaties of the United States are not, however, nearly as advanced as those that exist between other states. Since the Locarno agreements of 1925 practically no

limited treaties have been made. The popular form has more and more become a bilateral conciliation and arbitration treaty, by which all disputes were to be settled by one method or the other without specific exceptions.[1]

The following tabulation shows the network of American bilateral arbitration and conciliation treaties which is completed or in process of formation. In order to show more completely the status of American engagements, the relations established by the Central American and Pan American (Gondra) conventions of 1923 and the Pan American conciliation and arbitration treaties of 1929 are assimilated to the bilateral treaties. The table follows:

[1] For analysis of treaties, see League of Nations, *Arbitration and Security. Systematic Survey* . . . Part I (C. 653. M. 216. 1927. V. 29). The texts of 85 treaties are printed in the same volume.

Conspectus of Pacific Settlement Engagements of the United States

(Corrected to July 1, 1929)

	Arbitration			Conciliation		
	Negotiations begun for New Treaties	Signed	Entry into Force	Negotiations begun for New Treaties	Signed	Entry into Force
Albania	Apr. 24, '28	Oct. 22, '28	Feb. 12, '29	Apr. 24, '28	Oct. 22, '28	Feb. 12, '29
Argentina				Mar. 25, '23	May 3, '23 [1]	
Australia [2]	Dec. 27, '27			July 17, '13	Sept. 15, '14	Nov. 10, '14
Austria	Mar. 23, '28	Aug. 16, '28	Feb. 28, '29	Mar. 23, '28	Aug. 16, '28	Feb. 28, '29
Belgium	Mar. 26, '28	Mar. 20, '29	*	Mar. 26, '28	Mar. 20, '29	*
Bolivia [3]	Dec. 10, '28	Jan. 5, '29		July 17, '13	Jan. 22, '14	Jan. 8, '15
				Dec. 10, '28	Jan. 5, '29	
Brazil [3]	——	Jan. 23, '09	July 26, '11	July 17, '13	July 24, '14	Oct. 28, '16
				Mar. 25, '23	May 3, '23 [4]	Aug. 13, '24
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
British Empire [2]	Dec. 27, '27			July 17, '13	Sept. 15, '14	Nov. 10, '14
Bulgaria	Apr. 20, '28	Jan. 21, '29	*	Apr. 20, '28	Jan. 21, '29	*
Canada [2]	Dec. 27, '27			July 17, '13	Sept. 15, '14	Nov. 10, '14
Chile [3]				Aug. 12, '13	July 24, '14	Jan. 19, '16
				Mar. 25, '23	May 3, '23 [4]	Sept. 23, '25
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
China	Dec. 21, '28			July 17, '13	Sept. 15, '14	Oct. 22, '15
Colombia [3]				Mar. 25, '23	May 3, '23 [1]	
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	

Costa Rica [3] . .				Dec. 4, '22	Feb. 7, '23 [5]	June 14, '25
				Mar. 25, '23	May 3, '23 [1]	In force
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
Cuba [3] . . .				Mar. 25, '23	May 3, '23 [4]	Aug. 27, '24
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
Czechoslovakia .	Mar. 27, '28	Aug. 16, '28	Apr. 11, '29	Mar. 27, '28	Aug. 16, '28	Apr. 11, '29
Denmark . .	Mar. 22, '28	June 14, '28	Apr. 17, '29		Apr. 17, '14	Jan. 19, '15
Dominican Republic [3] . . .				July 17, '13	May 3, '23 [4]	Feb. 22, '29
	Dec. 10, '28	Jan. 5, '29	May 23, '29	Dec. 10, '28	Jan. 5, '29	
Ecuador [3] . .	——	Jan. 7, '09	June 22, '10	Dec. 18, '13	Oct. 13, '14	Jan. 22, '16
				Mar. 25, '23	May 3, '23 [4]	Mar. 6, '29
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	

[1] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923.

[2] The arbitration convention signed April 4, 1908, on behalf of "his Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India," expired by limitation June 4, 1928. It presumably applied to the self-governing component parts of the British Empire, with which consultations respecting a treaty in succession to it have been held by his Majesty's Government in Great Britain.

[3] Participated in the multilateral Pan-American Conference on Conciliation and Arbitration, Washington, December 10, 1928–January 5, 1929. The general convention on conciliation of January 5, 1929, was ratified and proclaimed by the United States April 4, 1929 (Treaty Series No. 780).

[4] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923, has been signed and is in force with respect to this state. It enters into force "in the order of ratification;" the date of deposit is given in the table. The United States ratification was on April 21, 1924. J. Varela, Enrique Olaya and Ricardo Alfaro, respectively ministers of Uruguay, Colombia and Panama at Washington, are the northern commissioners.

[5] The convention between the United States and the Central American Republics signed at Washington establishing international commissions of inquiry and intended to "unify and recast" the treaties for the advancement of peace with: Costa Rica, February 13, 1914 (in force November 12, 1914); Guatemala, September 20, 1913 (in force October 13, 1914); Honduras, November 3, 1918 (in force July 27, 1916); Nicaragua December 17, 1913 (not in force); Salvador, August 7, 1913 (not in force).

* Ratification advised and consented to by United States Senate; exchange of ratifications and entrance into force pending on June 1, 1929.

CONSPECTUS OF PACIFIC SETTLEMENT ENGAGEMENTS OF THE UNITED STATES — *Continued*

	Arbitration			Conciliation		
	Negotiations begun for New Treaties	Signed	Entry into Force	Negotiations begun for New Treaties	Signed	Entry into Force
Egypt	Aug. 16, '28			Aug. 16, '28		
Estonia	Apr. 16, '28			Apr. 16, '28		
Ethiopia		Jan. 26, '29	*		Jan. 26, '29	*
Finland	Apr. 9, '28	June 7, '28	Jan. 14, '29	Apr. 9, '28	June 7, '28	Jan. 14, '29
France	Dec. 28, '27	Feb. 6, '28	Apr. 22, '29	July 17, '13	Sept. 15, '14	Jan. 22, '15
Germany	Mar. 12, '28	May 5, '28	Feb. 25, '29	Mar. 12, '28	May 5, '28	Feb. 25, '29
Greece	Apr. 23, '28			Apr. 23, '28		
Guatemala [1]	Dec. 10, '28	Jan. 5, '29	*	Dec. 4, '22	Feb. 7, '23 [2]	June 14, '25
				Mar. 25, '23	May 3, '23 [3]	Oct. 5, '28
				Dec. 10, '28	Jan. 5, '29	
Haiti [1]	——	Jan. 9, '09	Nov. 15, '09	Mar. 25, '23	May 3, '23 [3]	July 22, '25
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
Honduras [1]	Dec. 10, '28	Jan. 5, '29		Dec. 4, '22	Feb. 7, '23 [2]	June 14, '25
				Mar. 25, '23	May 3, '23 [4]	
				Dec. 10, '28	Jan. 5, '29	
Hungary	Mar. 23, '28	Jan. 26, '29	*	Mar. 23, '28	Jan. 26, '29	*
India [5]	Dec. 27, '27					
Italy	Mar. 8, '28	Apr. 19, '28	*	July 17, '13	May 5, '14	Mar. 19, '15
Irish Free State [5]	Dec. 27, '27					
Japan	Mar. 14, '28 [6]			Mar. 14, '28 [6]		

Latvia	Apr. 6, '28		Sept. 27, '26	Apr. 6, '28		
Liberia	——	Feb. 10, '26				
Lithuania	Apr. 5, '28	Nov. 14, '28		Apr. 5, '28	Nov. 14, '28	
Luxemburg	Sept. 5, '28	Apr. 6, '29	*	Sept. 5, '28	Apr. 6, '29	*
Mexico [1]	——	Feb. 2, 1848	May 30, 1848	Mar. 25, '23	May 3, '23 [4]	Oct. 21, '27
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
Netherlands	Mar. 29, '28	Feb. 27, '29	Apr. 25, '29		Dec. 18, '13	Mar. 10, '28 [7]
New Zealand [5]	Dec. 27, '27			July 17, '13	Sept. 15, '14	Nov. 10, '14

[1] Participated in the multilateral Pan-American Conference on Conciliation and Arbitration, Washington, December 10, 1928–January 5, 1929. The general convention on conciliation of January 5, 1929, was ratified and proclaimed by the United States April 4, 1929 (Treaty Series No. 780).

[2] The convention between the United States and the Central American Republics signed at Washington establishing international commissions of inquiry and intended to "unify and recast" the treaties for the advancement of peace with: Costa Rica, February 13, 1914 (in force November 12, 1914); Guatemala, September 20, 1913 (in force October 13, 1914); Honduras, November 3, 1918 (in force July 27, 1916); Nicaragua, December 17, 1913 (not in force); Salvador, August 7, 1913 (not in force).

[3] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923, has been signed and is in force with respect to this state. It enters into force "in the order of ratification;" the date of deposit is given in the table. The United States ratification was on April 21, 1924. J. Varela, Enrique Olaya and Ricardo Alfaro, respectively ministers of Uruguay Colombia and Panama at Washington, are the northern commissioners.

[4] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923.

[5] The arbitration convention signed April 4, 1908, on behalf of "His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India," expired by limitation June 4, 1928. It presumably applied to the self-governing component parts of the British Empire, with which consultations respecting a treaty in succession to it have been held by his Majesty's Government in Great Britain.

[6] Submission of texts takes place of combined arbitration and conciliation pact submitted in draft form on December 31, 1927.

[7] Ratification of this treaty was advised by the Senate on August 13, 1914. However, the Netherlands Government found that while the English text made it apply to "all disputes," the Dutch text specified all disputes "that may arise." (Exec. F, 70th Cong., 1st sess.) This circumstance was called to the attention of the United States Government and a declaration was finally signed on February 13, 1928, by which the parties "declare that the said Art. 1 is meant and is intended to apply, subject to the terms of that article, to all disputes between the two governments existing at the time of the taking effect of the treaty as well as to those arising thereafter." Following favorable action on this declaration by the Senate, the treaty and declaration were put into force (Treaty Series No. 760).

* Ratification advised and consented to by United States Senate; exchange of ratifications and entrance into force pending on June 1, 1929.

CONSPECTUS OF PACIFIC SETTLEMENT ENGAGEMENTS OF THE UNITED STATES — *Continued*

	Arbitration			Conciliation		
	Negotiations begun for New Treaties	Signed	Entry into Force	Negotiations begun for New Treaties	Signed	Entry into Force
Nicaragua [1]	Dec. 10, '28	Jan. 5, '29		Dec. 4, '22	Feb. 7, '23 [2]	June 14, '25
				Mar. 25, '23	May 3, '23 [3]	
				Dec. 10, '28	Jan. 5, '29	
Norway	Mar. 10, '28	Feb. 20, '29	June 7, '29	July 17, '13	June 24, '14	Oct. 21, '14
Panama [1]	Dec. 10, '28	Jan. 5, '29		Mar. 25, '23	May 3, '23 [4]	Mar. 19, '28
				Dec. 10, '28	Jan. 5, '29	
Paraguay [1]	Dec. 10, '28	Jan. 5, '29		——	Aug. 29, '14	Mar. 9, '15
				Mar. 25, '23	May 3, '23 [4]	May 20, '25
				Dec. 10, '28	Jan. 5, '29	
Persia	Nov. – '28			Nov. –, '28		
Peru [1]	——	Dec. 5, '08	June 29, '09	July 17, '13	July 14, '14	Mar. 4, '15
				Mar. 25, '23	May 3, '23	In force
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
Poland	Mar. 28, '28	Aug. 16, '28		Mar. 28, '28	Aug. 16, '28	
Portugal	Mar. 21, '28	Mar. 1, '29	*	July 17, '13	Feb. 4, '14	Oct. 24, '14
Rumania	Apr. 23, '28	Mar. 21, '29	*	Apr. 23, '28	Mar. 21, '29	*
Russia				July 17, '13	Oct. 1, '14	Mar. 22, '15
Salvador [1]	Dec. 10, '28	Jan. 5, '29	*	Dec. 4, '22	Feb. 7, '23 [2]	
				Mar. 25, '23	May 3, '23 [3]	In force
				Dec. 10, '28	Jan. 5, '29	*

Serb-Croat-Slovene State	Apr. 25, '28	Jan. 21, '29	June 22, '29	Apr. 25, '28	Jan. 21, '29	June 22, '29
Siam	July 31, '28			July 31, '28		
South Africa [5]	Dec. 27, '27			July 17, '13	Sept. 15, '14	Nov. 10, '14
Soviet Union, see Russia						
Spain	Mar. 12, '28			July 17, '13	Sept. 15, '14	Dec. 21, '14
Sweden	——	June 24, '24	Mar. 18, '25 [6]	July 17, '13	Oct. 13, '14	Jan. 11, '15
	Apr. 26, '28	Oct. 27, '28	Apr. 15, '29			
Switzerland	Apr. 2, '28			Dec. 18, '13	Feb. 13, '14 [7]	

[1] Participated in the multilateral Pan-American Conference on Conciliation and Arbitration, Washington, December 10, 1928–January 5, 1929. The general convention on conciliation of January 5, 1929, was ratified and proclaimed by the United States April 4, 1929 (Treaty Series No. 780).

[2] The convention between the United States and the Central American Republics signed at Washington establishing international commissions of inquiry and intended to "unify and recast" the treaties for the advancement of peace with: Costa Rica, February 13, 1914 (in force November 12, 1914); Guatemala, September 20, 1913 (in force October 13, 1914); Honduras, November 3, 1918 (in force July 27, 1916); Nicaragua, December 17, 1913 (not in force); Salvador, August 7, 1913 (not in force).

[3] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923.

[4] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923, has been signed and is in force with respect to this state. It enters into force "in the order of ratification;" the date of deposit is given in the table. The United States ratification was on April 21, 1924. J. Varela, Enrique Olaya and Ricardo Alfaro, respectively ministers of Uruguay, Colombia and Panama at Washington, are the northern commissioners.

[5] The arbitration convention signed April 4, 1908, on behalf of "His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India," expired by limitation June 4, 1928. It presumably applied to the self-governing component parts of the British Empire, with which consultations respecting a treaty in succession to it have been held by His Majesty's Government in Great Britain.

[6] The treaty would have expired March 18, 1930.

[7] This treaty was advised and consented to by the United States Senate August 13, 1914; the exchange of ratifications was proposed by the United States on April 2, 1928.

* Ratification advised and consented to by United States Senate; exchange of ratifications and entrance into force pending on June 1, 1929.

Conspectus of Pacific Settlement Engagements of the United States — *Concluded*

	Arbitration			Conciliation		
	Negotiations begun for New Treaties	Signed	Entry into Force	Negotiations begun for New Treaties	Signed	Entry into Force
Turkey	Apr. 19, '28			Apr. 19, '28		
Uruguay [1]	——	Jan. 9, '09	Nov. 14, '13	Dec. 18, '13	July 20, '14	Feb. 24, '15
				Mar. 25, '23	May 3, '23 [2]	Apr. 18, '28
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	
Venezuela [1]				Dec. 18, '13	Mar. 21, '14	Feb. 12, '21
				Mar. 25, '23	May 3, '23 [2]	Mar. 15, '25
	Dec. 10, '28	Jan. 5, '29		Dec. 10, '28	Jan. 5, '29	

[1] Participated in the multilateral Pan-American Conference on Conciliation and Arbitration, Washington, December 10, 1928–January 5, 1929. The general convention on conciliation of January 5, 1929, was ratified and proclaimed by the United States April 4, 1929 (Treaty Series No. 780).

[2] The multilateral treaty to avoid or prevent conflicts between the American states signed at Santiago, Chile, May 3, 1923, has been signed and is in force with respect to this state. It enters into force "in the order of ratification;" the date of deposit is given in the table. The United States ratification was on April 21, 1924. J. Varela, Enrique Olaya and Ricardo Alfaro, respectively ministers of Uruguay, Colombia and Panama at Washington, are the northern commissioners.

APPENDIX I

I. FRANCO-AMERICAN NEGOTIATIONS ON THE RENUNCIATION OF WAR[1]

[Translation]

June 20, 1927.

1. Draft of Pact of Perpetual Friendship between France and the United States[2]

The President of the French Republic and the President of the United States of America,

Equally desirous of affirming the solidarity of the French people and the people of the United States of America in their wish for peace and in their renunciation of a recourse to arms as an instrument of their policy toward each other,

And having come to an agreement to consecrate in a solemn Act these sentiments as much in accord with the progress of modern democracies as with the mutual friendship and esteem of two nations that no war has ever divided and which the defense of liberty and justice has always drawn closer,

Have to this end designated for their plenipotentiaries, to wit,

The President of the French Republic

. . . . . .

The President of the United States of America

. . . . . .

Who, after having exchanged their powers, recognized in good and due form, have agreed upon the following provisions:

ART. 1. The high contracting powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy toward each other.

ART. 2. The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise

[1] Reprinted from *General Pact for Renunciation of War, Text of the Pact as signed, Notes and other Papers*, (Washington, Government Printing Office, 1928).

[2] Transmitted to the Secretary of State by M. Briand through the American Ambassador at Paris.

between France and the United States of America, shall never be sought by either side except by pacific means.

ART. 3. The present Act shall be ratified. The ratifications thereof shall be exchanged at ..... as soon as possible and from that time it shall have full force and value.

In witness whereof the above-named plenipotentiaries have signed the present Act and have thereunto set their seal.

Done at ..... in two copies (each drawn up both in French and English and having equal force), the ..... nineteen hundred and twenty-seven.

(Signatures and seals)

2. The Secretary of State to the French Ambassador

WASHINGTON, *December 28, 1927.*

EXCELLENCY:

I have the honor to refer to the form of treaty entitled "Draft of Pact of Perpetual Friendship between France and the United States," which His Excellency the Minister of Foreign Affairs was good enough to transmit to me informally last June through the instrumentality of the American Ambassador at Paris.

This draft treaty proposes that the two powers should solemnly declare in the name of their respective peoples that they condemn recourse to war, renounce it as an instrument of their national policy toward each other, and agree that a settlement of disputes arising between them, of whatsoever nature or origin they may be, shall never be sought by either party except through pacific means. I have given the most careful consideration to this proposal and take this occasion warmly to reciprocate on behalf of the American people the lofty sentiments of friendship which inspired the French people, through His Excellency M. Briand, to suggest the proposed treaty.

The Government of the United States welcomes every opportunity for joining with the other governments of the world in condemning war and pledging anew its faith in arbitration. It is firmly of the opinion that every international endorsement of arbitration, and every treaty repudiating the idea of a resort to arms for the settlement of justiciable disputes, materially advances the cause of world peace. My views on this subject find a concrete expression in the form of the arbitration treaty which I have proposed in my note to you of December 28, 1927, to take the place of the arbitration convention of 1908. The proposed treaty extends the scope of that convention and records the unmistakable determination of the two Governments to prevent any breach in the friendly relations which have subsisted between them for so long a period.

In view of the traditional friendship between France and the United States — a friendship which happily is not dependent upon the exist-

ence of any formal engagement — and in view of the common desire of the two nations never to resort to arms in the settlement of such controversies as may possibly arise between them, which is recorded in the draft arbitration treaty just referred to, it has occurred to me that the two Governments, instead of contenting themselves with a bilateral declaration of the nature suggested by M. Briand, might make a more signal contribution to world peace by joining in an effort to obtain the adherence of all of the principal powers of the world to a declaration renouncing war as an instrument of national policy. Such a declaration, if executed by the principal world powers, could not but be an impressive example to all the other nations of the world, and might conceivably lead such nations to subscribe in their turn to the same instrument, thus perfecting among all the powers of the world an arrangement heretofore suggested only as between France and the United States.

The Government of the United States is prepared, therefore, to concert with the Government of France with a view to the conclusion of a treaty among the principal powers of the world, open to signature by all nations, condemning war and renouncing it as an instrument of national policy in favor of the pacific settlement of international disputes. If the Government of France is willing to join with the Government of the United States in this endeavor, and to enter with the United States and the other principal powers of the world into an appropriate multilateral treaty, I shall be happy to engage at once in conversations looking to the preparation of a draft treaty following the lines suggested by M. Briand for submission by France and the United States jointly to the other nations of the world.

Accept [etc.]

FRANK B. KELLOGG.

3. The French Ambassador to the Secretary of State

[Translation]

WASHINGTON, *January 5, 1928.*

MR. SECRETARY OF STATE:

By a letter of December 28 last, Your Excellency was kind enough to make known the sentiments of the Government of the United States concerning the suggestion of a treaty proposed by the Government of the Republic in the month of June 1927, with a view to the condemnation of war and the renunciation thereof as an instrument of national policy between France and the United States.

According to Your Excellency, the two Governments, instead of limiting themselves to a bilateral treaty, would contribute more fully to the peace of the world by uniting their efforts to obtain the adhesion of all the principal powers of the world to a declaration renouncing war as an instrument of their national policy.

Such a declaration, if it were subscribed to by the principal powers, could not fail to be an impressive example to all the nations of the world and might very well lead them to subscribe in their turn to the same pact, thus bringing into effect as among all the nations of the world an arrangement which at first was only suggested as between France and the United States.

The Government of the United States, therefore, would be disposed to join the Government of the Republic with a view to concluding a treaty between the principal powers of the world which, open to the signature of all nations, would condemn war, would contain a declaration to renounce it as an instrument of national policy and would substitute therefor the pacific settlement of disputes between nations.

Your Excellency added that if the Government of the Republic agrees thus to join the Government of the United States and the other principal powers of the world in an appropriate multilateral treaty, Your Excellency would be happy to undertake immediately conversations leading to the elaboration of a draft inspired by the suggestions of M. Briand and destined to be proposed jointly by France and the United States to the other nations of the world.

The Government of the Republic appreciated sincerely the favorable reception given by the Government of the United States to the proposal of M. Briand. It believes that the procedure suggested by Your Excellency and carried out in a manner agreeable to public opinion and to the popular sentiment of the different nations would appear to be of such nature as to satisfy the views of the French Government. It would be advantageous immediately to sanction the general character of this procedure by affixing the signatures of France and the United States.

I am authorized to inform you that the Government of the Republic is disposed to join with the Government of the United States in proposing for agreement by all nations a treaty to be signed at the present time by France and the United States and under the terms of which the high contracting parties shall renounce all war of aggression and shall declare that for the settlement of differences of whatever nature which may arise between them they will employ all pacific means. The high contracting parties will engage to bring this treaty to the attention of all states and invite them to adhere.

The Government of the Republic is convinced that the principles thus proclaimed cannot but be received with gratitude by the entire world, and it does not doubt that the efforts of the two Governments to insure universal adoption will be crowned with full success.

Accept [etc.]

CLAUDEL.

4. The Secretary of State to the French Ambassador

WASHINGTON, *January 11, 1928.*

EXCELLENCY:

In the reply which your Government was good enough to make to my note of December 28, 1927, His Excellency the Minister of Foreign Affairs summarized briefly the proposal presented by the Government of the United States, and stated that it appeared to be of such a nature as to satisfy the views of the French Government. In these circumstances he added that the Government of the Republic was disposed to join with the Government of the United States in proposing for acceptance by all nations a treaty to be signed at the present time by France and the United States, under the terms of which the high contracting parties should renounce all wars of aggression and should declare that they would employ all peaceful means for the settlement of any differences that might arise between them.

The Government of the United States is deeply gratified that the Government of France has seen its way clear to accept in principle its proposal that, instead of the bilateral pact originally suggested by M. Briand, there be negotiated among the principal powers of the world an equivalent multilateral treaty open to signature by all nations. There can be no doubt that such a multilateral treaty would be a far more effective instrument for the promotion of pacific relations than a mere agreement between France and the United States alone, and if the present efforts of the two Governments achieve ultimate success, they will have made a memorable contribution to the cause of world peace.

While the Government of France and the Government of the United States are now closely in accord so far as the multilateral feature of the proposed treaty is concerned, the language of M. Briand's note of January 5, 1928, is in two respects open to an interpretation not in harmony with the idea which the Government of the United States had in mind when it submitted to you the proposition outlined in my note of December 28, 1927. In the first place, it appears to be the thought of your Government that the proposed multilateral treaty be signed in the first instance by France and the United States alone and then submitted to the other powers for their acceptance. In the opinion of the Government of the United States this procedure is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one of the other great powers. In such event the treaty could not come into force and the present efforts of France and the United States would be rendered abortive. This unhappy result would not necessarily follow a disagreement as to terminology arising prior to the definitive approval by any Government of a proposed form of treaty, since it is by no means unreasonable to suppose that the views of the governments con-

cerned could be accommodated through informal preliminary discussions and a text devised which would be acceptable to them all. Both France and the United States are too deeply interested in the success of their endeavors for the advancement of peace to be willing to jeopardize the ultimate accomplishment of their purpose by incurring unnecessary risk of disagreement with the other powers concerned, and I have no doubt that your Government will be entirely agreeable to joining with the Government of the United States and the governments of the other powers concerned for the purpose of reaching a preliminary agreement as to the language to be used in the proposed treaty, thus obviating all danger of confronting the other powers with a definitive treaty unacceptable to them. As indicated below, the Government of the United States would be pleased if the Government of France would agree that the draft treaty submitted by M. Briand last June should be made the basis of such preliminary discussions.

In the second place, and this point is closely related to what goes before, M. Briand's reply of January 5, 1928, in expressing the willingness of the Government of France to join with the Government of the United States in proposing a multilateral treaty for the renunciation of war, apparently contemplates that the scope of such treaty should be limited to wars of aggression. The form of treaty which your Government submitted to me last June which was the subject of my note of December 28, 1927, contained no such qualification or limitation. On the contrary it provided unequivocally for the renunciation by the high contracting parties of all war as an instrument of national policy in the following terms:

> Art. 1. The high contracting powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy toward each other.
>
> Art. 2. The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America, shall never be sought by either side except by pacific means.

I am not informed of the reasons which have led your Government to suggest this modification of its original proposal, but I earnestly hope that it is of no particular significance and that it is not to be taken as an indication that the Government of France will find itself unable to join with the Government of the United States in proposing, as suggested above, that the original formula submitted by M. Briand which envisaged the unqualified renunciation of all war as an instrument of national policy be made the subject of preliminary discussions with the other great powers for the purpose of reaching a tentative agreement as to the language to be used in the proposed treaty.

If your Government is agreeable to the plan outlined above and is willing that further discussions of the terms of the proposed multilateral treaty be based upon the original proposal submitted to me by M. Briand last June, I have the honor to suggest that the Government of France join with the Government of the United States in a communication to the British, German, Italian and Japanese Governments transmitting the text of M. Briand's original proposal and copies of the subsequent correspondence between the Governments of France and the United States for their consideration and comment, it being understood, of course, that these preliminary discussions would in no way commit any of the participating Governments pending the conclusion of a definitive treaty.

Accept [etc.]

FRANK B. KELLOGG.

5. The French Ambassador to the Secretary of State

[Translation]

WASHINGTON, *January 21, 1928.*

MR. SECRETARY OF STATE:

Your Excellency was pleased to inform me in your note of the 11th instant, of the considerations suggested to you by my letter of January 5 in answer to your communication of December 28, 1927. My Government has asked me to express to you its satisfaction at the harmonizing, thanks to Your Excellency, of the views of the two Governments concerning the best method of accomplishing a project upon the essential principles of which they apparently are in agreement.

The original French proposal of June, 1927, contemplating an act confined to France and the United States, appeared to the French Government to be both desirable and feasible by reason of the historical relations between the two Republics.

The American Government was only willing, however, to embody the declaration proposed by the French Government in the preamble [1] of the Franco-American arbitration convention now in process of renewal, and considered on the other hand, for reasons of its own which the French Government has not failed to take into account, that it would be opportune to broaden this manifestation against war and to make it the subject of a separate act in which the other powers would be invited to participate.

The Government of the Republic was not opposed to this expansion of its original plan, but it could not but realize, and it felt bound to point out that the new negotiation as proposed would be more complex and likely to meet with various difficulties.

The question as to whether there would be any advantage in having such an instrument, of a multipartite nature, signed in the first place

[1] See p. 83 [303].

by France and the United States, or else first elaborated by certain of the principal powers of the world and then presented to all for their signature, is essentially one of procedure.

The Government of the Republic offered a suggestion upon this point only because of its desire more speedily and more surely to achieve the result which it seeks in common with the United States. This is tantamount to saying that it is ready to concur in any method which may appear to be the most practicable.

There is, however, a situation of fact to which my Government has requested me to draw your particular attention.

The American Government can not be unaware of the fact that the great majority of the powers of the world, and among them most of the principal powers, are making the organization and strengthening of peace the object of common efforts carried on within the framework of the League of Nations. They are already bound to one another by a Covenant placing them under reciprocal obligations, as well as by agreements such as those signed at Locarno in October, 1925, or by international conventions relative to guaranties of neutrality, all of which engagements impose upon them duties which they can not contravene.

In particular, Your Excellency knows that all states Members of the League of Nations represented at Geneva in the month of September last, adopted, in a joint resolution [1] tending to the condemnation of war, certain principles based on the respect for the reciprocal rights and duties of each. In that resolution the powers were led to specify that the action to be condemned as an international crime is aggressive war and that all peaceful means must be employed for the settlement of differences, of any nature whatsoever, which might arise between the several states.

This is a condition of affairs which the United States, while a stranger thereto, can not decline to take into consideration, just as must any other state called upon to take part in the negotiation.

Furthermore, the United States would not in any way be bound thereby to the provisions of the Covenant of the League of Nations. The French proposal of June last looking to the conclusion of a bilateral compact, had been drawn up in the light of the century-old relations between France and the United States; the French Government still stands ready to negotiate with the American Government on the same conditions and on the same basis. It has never altered its attitude in that respect. But when confronted by the initiative of the United States in proposing a multipartite covenant, it had to take into consideration the relations existing among the various powers which would be called upon to participate therein. This it has done, with the object of assuring the success of the treaty contemplated by the United States. Its suggestions of January 5 as to the terms of the

[1] See p. 26 [246].

multipartite treaty are inspired by the formula which has already gained the unanimous adherence of all of the states Members of the League of Nations, and which for that very reason might be accepted by them with regard to the United States, just as it has already been accepted among themselves.

This is the explanation of our proposal of January 5.

The Government of the Republic has always, under all circumstances, very clearly and without mental reservation declared its readiness to join in any declaration tending to denounce war as a crime and to set up international sanctions susceptible of preventing or repressing it. There has been no change in its sentiments in that respect: its position remains the same. Your Excellency may therefore be assured of its sincere desire to respond to the idea of the American Government and to second its efforts to the full extent compatible with the situation of fact created by its international obligations. It is this preoccupation which inspired the formula proposed on January 5, a formula which does indeed seem to be the most apt at this time to assure the accomplishment of the American project. The Government of the Republic accordingly can not but hope that the American Government will share this view. Subject to these observations, the Government of the Republic would, moreover, very gladly welcome any suggestions offered by the American Government which would make it possible to reconcile an absolute condemnation of war with the engagements and obligations assumed by the several nations and the legitimate concern for their respective security.

Pray accept [etc.]

CLAUDEL.

6. The Secretary of State to the French Ambassador

WASHINGTON, *February 27, 1928.*

EXCELLENCY:

Our recent discussions of the question whether the United States and France could join in suggesting to the other principal powers of the world the conclusion of a treaty proscribing war as an instrument of national policy in their mutual relations have been brought by your note of January 21, 1928, to a point where it seems necessary, if success is to be achieved, to examine the problem from a practical point of view.

It is evident from our previous correspondence that the Governments of France and the United States are of one mind in their earnest desire to initiate and promote a new international movement for effective world peace, and that they are in agreement as to the essential principles of the procedure to be followed in the accomplishment of their common purpose. As I understand your note of January 21, 1928, the only substantial obstacle in the way of the unqualified acceptance by France of the proposals which I submitted in my notes of

December 28, 1927, and January 11, 1928, is your Government's doubt whether as a Member of the League of Nations and a party to the treaties of Locarno and other treaties guaranteeing neutrality, France can agree with the United States and the other principal world powers not to resort to war in their mutual relations, without *ipso facto* violating her present international obligations under those treaties. In Your Excellency's last note this question was suggested for consideration.

Without, of course, undertaking formally to construe the present treaty obligations of France, I desire to point out that if those obligations can be interpreted so as to permit France to conclude a treaty with the United States such as that offered to me last June by M. Briand and offered again in your note of January 21, 1928, it is not unreasonable to suppose that they can be interpreted with equal justice so as to permit France to join with the United States in offering to conclude an equivalent multilateral treaty with the other principal powers of the world. The difference between the bilateral and multilateral form of treaty having for its object the unqualified renunciation of war as an instrument of national policy, seems to me to be one of degree and not of substance. A Government free to conclude such a bilateral treaty should be no less able to become a party to an identical multilateral treaty since it is hardly to be presumed that Members of the League of Nations are in a position to do separately something they can not do together. I earnestly hope, therefore, that your Government, which admittedly perceives no bar to the conclusion of an unqualified anti-war treaty with the United States alone, will be able to satisfy itself that an equivalent treaty among the principal world powers would be equally consistent with membership in the League of Nations. If, however, Members of the League of Nations can not, without violating the terms of the Covenant of the League, agree among themselves and with the Government of the United States to renounce war as an instrument of their national policy, it seems idle to discuss either bilateral or multilateral treaties unreservedly renouncing war. I am reluctant to believe, however, that the provisions of the Covenant of the League of Nations really stand in the way of the cooperation of the United States and Members of the League of Nations in a common effort to abolish the institution of war. Of no little interest in this connection is the recent adoption of a resolution by the Sixth International Conference of American States expressing in the name of the American Republics unqualified condemnation of war as an instrument of national policy in their mutual relations. It is significant to note that of the twenty-one states represented at the Conference, seventeen are Members of the League of Nations.

I trust, therefore, that neither France nor any other Member of the League of Nations will finally decide that an unequivocal and unqualified renunciation of war as an instrument of national policy either violates the specific obligations imposed by the Covenant or conflicts

with the fundamental idea and purpose of the League of Nations. On the contrary, is it not entirely reasonable to conclude that a formal engagement of this character entered into by all of the principal powers, and ultimately, I trust, by the entire family of nations, would be a most effective instrument for promoting the great ideal of peace which the League itself has so closely at heart? If, however, such a declaration were accompanied by definitions of the word "aggressor" and by exceptions and qualifications stipulating when nations would be justified in going to war, its effect would be very greatly weakened and its positive value as a guaranty of peace virtually destroyed. The ideal which inspires the effort so sincerely and so hopefully put forward by your Government and mine is arresting and appealing just because of its purity and simplicity; and I can not avoid the feeling that if governments should publicly acknowledge that they can only deal with this ideal in a technical spirit and must insist upon the adoption of reservations impairing, if not utterly destroying the true significance of their common endeavors, they would be in effect only recording their impotence, to the keen disappointment of mankind in general.

From the broad standpoint of humanity and civilization, all war is an assault upon the stability of human society, and should be suppressed in the common interest. The Government of the United States desires to see the institution of war abolished, and stands ready to conclude with the French, British, Italian, German and Japanese Governments a single multilateral treaty open to subsequent adherence by any and all other governments, binding the parties thereto not to resort to war with one another. The precise language to be employed in such a treaty is a matter of indifference to the United States so long as it clearly and unmistakably sets forth the determination of the parties to abolish war among themselves. I therefore renew the suggestion contained in my note of January 11, 1928, that the Government of France join with the Government of the United States in transmitting to the British, Italian, German and Japanese Governments for their consideration and comment the text of M. Briand's original proposal, together with copies of the subsequent correspondence between France and the United States as a basis for preliminary discussions looking to the conclusion of an appropriate multilateral treaty proscribing recourse to war.

Accept [etc.]

FRANK B. KELLOGG.

7. The French Ambassador to the Secretary of State

[Translation]

March 30, 1928.

MR. SECRETARY OF STATE:

In reply to your note of February 27 last regarding the proposal for a multilateral treaty proscribing war, I have the honor to inform

Your Excellency that M. Briand has been pleased to find in the observations which you have submitted for his consideration a new and cordial affirmation of the common inspiration which animates our two Governments equally anxious to cooperate in an international movement toward the effective establishment of peace in the world. Assured of such a solidarity in the pursuit of an identical purpose, M. Briand remains convinced, as does Your Excellency, that a mutually acceptable formula may well result from the exchange of views which has taken place up to now between our two Governments, if on both sides there is a disposition to adhere to those essential realities which must be preserved in this discussion, by subordinating thereto those differences of form to which questions of terminology not affecting the substance of the discussion may upon analysis be reduced.

That is to say, that the French Government at this point of the discussion, when all the aspects of the problem have been examined, proposes to adopt as practical a point of view as possible and to facilitate as far as it can the effort of the American Government in the direction of an immediate decision.

The observations which M. Briand has ventured to offer in support of his last suggestion were inspired by a very sincere desire to facilitate in a practical manner the realization of the proposal for the contemplated multilateral treaty by pointing out the conditions best adapted to bring about the consent thereto of all the Governments whose agreement is necessary. The French wording, therefore, tending to limit to war of aggression the proscription proposed in the form of a multilateral rather than a bilateral treaty, was intended to obviate in so far as the American plan was concerned those serious difficulties which would assuredly be encountered in practice. In order to pay due regard to the international obligations of the signatories, it was not possible, as soon as it became a question of a multilateral treaty, to impart thereto the unconditional character desired by Your Excellency without facing the necessity of obtaining the unanimous adherence of all the existing states, or at least of all the interested states, that is to say, those which by reason of their situation are exposed to the possibility of a conflict with any one of the contracting states. In the relations between the states of the American Continent there are similar difficulties which led the American Government at the Pan-American Conference at Habana to approve a resolution limited to the very terms "war of aggression" which the French Government felt compelled to use in characterizing the renunciation to which it was requested to bind itself by means of a multilateral treaty. To be sure, the same reservation does not appear in another resolution to which Your Excellency referred in your note of February 27, but it must be observed that this resolution in itself constituted only a kind of preliminary tending toward a treaty of arbitration with regard to which numerous reservations were formulated.

Your Excellency appears to have been surprised that France should not be able to conclude with all the powers in the form of a multilateral treaty the same treaty which she offered to conclude separately with the United States in the form of a bilateral treaty. My Government believes that it has explained this point with sufficient clearness in recalling the fact that the project of a treaty of perpetual friendship between France and the United States proposed last June was drafted in such a way as to limit strictly the mutual undertakings which it contained to those relations in law resulting from intercourse between the two signatory states alone. Within such limits an absolutely unconditional agreement might be entered into, since that agreement would not expose the signatories, as would a multilateral treaty, to juridical difficulties resulting from the respective positions of various powers with regard to one another, and since furthermore, as regards two countries like France and the United States morally united as they are by ties of time-honored friendship, other contractual engagements concluded by one or the other power could never constitute in fact anything but purely theoretical obstacles.

In order to attain the result which Your Excellency has in view, you have considered it preferable to adhere to the conception of a multilateral treaty, and you have deemed it necessary to insist that even in the multilateral form the proposed treaty should include an unconditional pledge. If Your Excellency really believes that greater chances of success may be found in this formula in spite of the consequences which it involves, especially the necessity of attaining a treaty worldwide in its scope, the French Government would hesitate to discuss longer the question of its adherence to a plan which the American Government originated and for which it is responsible. Without in any way losing sight of its international obligations, both as a Member of the League of Nations and as a party to the treaties of Locarno or treaties guaranteeing neutrality, France, for the purpose of finding a common basis for initial negotiations, is wholly disposed, after a new examination of the proposals formulated by Your Excellency, to suggest immediately to the German, British, Italian and Japanese Governments that they join in seeking, in the spirit and in the letter of the last American note, any adjustments which in the last analysis may be forthcoming with respect to the possibility of reconciling previous obligations with the terms of the contemplated new treaty.

The French Government notes at once with satisfaction that while advocating the conclusion among the Governments specifically mentioned of a treaty binding the signatories not to resort to war, the Government of the United States admits the participation in that treaty of all the other governments of the world. This conception accords with a reservation actually necessary for obtaining a real instrument for the establishment of peace by means of a formal engagement among all powers among whom political controversies may arise. Such an

engagement would in fact involve the risk of exposing the signatories to dangers and misunderstandings unless based upon the complete equality in the application of the treaty among themselves of all the states with respect to other states and not only upon the equality of certain states among them. The treaty contemplated could not operate in respect of one power which is a party thereto unless the other states exposed to the possibility of grave controversies with that party were also signatories thereof.

At the same time it is clear that in order not to turn an instrument of progress and peace into a means of oppression, if one of the signatory states should fail to keep its word, the other signatories should be released from their engagement with respect to the offending state. On this second point, as on the first, the French Government believes itself fully in accord with the Government of the United States.

My Government likewise gathers from the declarations which Your Excellency was good enough to make to me on the first of last March, the assurance that the renunciation of war, thus proclaimed, would not deprive the signatories of the right of legitimate defense. Such an interpretation tends to dissipate apprehensions, and the French Government is happy to note it.

If such is the attitude of the American Government on these three fundamental points, and if it is clearly understood in a general way that the obligations of the new pact should not be substituted for, or prejudice in any way, previous obligations contained in international instruments such as the Covenant of the League of Nations, the Locarno agreements or treaties guaranteeing neutrality whose character and scope can not be modified thereby, then the differences of opinion which have appeared in the course of previous phases of the negotiation have to do more with words than with the reality of the problem facing the two Governments to-day.

Hence, in accordance with the proposal contained in your note of January 11, which you kindly renewed in your note of the 27th of February, the French Government would be prepared forthwith to join with the Government of the United States in submitting for the consideration of the Governments of Germany, Great Britain, Italy and Japan, the correspondence exchanged between France and the United States since June, 1927, and in proposing at the same time for the assent of the four Governments, a draft agreement essentially corresponding in purpose to the original proposal of M. Briand, in the multipartite form desired by the United States with the changes of wording made necessary by the new concept; the signatory powers of such an instrument, while not prejudicing their rights of legitimate defense within the framework of existing treaties, should make a solemn declaration condemning recourse to war as an instrument of national policy, or in other words as a means of carrying out their own spontaneous, independent policy.

They would specifically undertake, among themselves, to refrain from any attack or invasion, and never to seek the settlement of any difference or conflict of whatsoever nature or origin which might arise between them save by pacific means. It would, however, be clearly understood that an obligation could only exist for the signatories in the event that the engagement were contracted by all states, that is to say, that the treaty, open to the accession of all powers, would only come into force after having received universal acceptance, unless the powers having signed this treaty or acceded thereto should agree upon its coming into force, despite certain abstentions. Finally, in case one of the contracting powers should happen to contravene the treaty, the other contracting powers would be automatically relieved, with respect to that power, of the obligations contained in the treaty.

It is in this form, it would seem, that the negotiation of a plan for a multilateral pact such as conceived by the American Government could be pursued with the greatest chances of success. Your Excellency may be assured, in any case, in the conduct of this negotiation of the most sincere and most complete collaboration of my Government which is always ready to associate itself without ambiguity or reservation, with any solemn and formal undertaking tending to insure, strengthen or extend the effective solidarity of the nations in the cause of peace.

In responding to these ideas, whose happy inspiration can not be gainsaid, France would feel confident that she was continuing the work to which she has never ceased to apply herself in her foreign policy, and, faithful to her previous international engagements of that nature, that she was contributing nobly, as Your Excellency has said, in "promoting the great ideal of peace which the League itself has so closely at heart."

Pray accept [etc.]

CLAUDEL.

II. PROPOSALS TO THE "PRINCIPAL POWERS"

1. Note delivered by American Ambassadors at London, Berlin, Rome and Tokyo, April 13, 1928[1]

As Your Excellency is aware, there has recently been exchanged between the Governments of France and the United States a series of notes dealing with the question of a possible international renunciation of war. The views of the two Governments have been clearly set forth in the correspondence between them.

The Government of the United States, as stated in its note of February 27, 1928, desires to see the institution of war abolished and stands ready to conclude with the French, British, German, Italian and Japanese Governments a single multilateral treaty open to subsequent adherence by any and all other Governments binding the parties thereto not to resort to war with one another.

The Government of the French Republic, while no less eager to promote the cause of world peace and to cooperate with other nations in any practical movement towards that end, has pointed out certain considerations which in its opinion must be borne in mind by those powers which are Members of the League of Nations, parties to the treaties of Locarno, or parties to other treaties guaranteeing neutrality. My Government has not conceded that such considerations necessitate any modification of its proposal for a multilateral treaty, and is of the opinion that every nation in the world can, with a proper regard for its own interests, as well as for the interests of the entire family of nations, join in such a treaty. It believes, moreover, that the execution by France, Great Britain, Germany, Italy, Japan and the United States of a treaty solemnly renouncing war in favor of the pacific settlement of international controversies would have tremendous moral effect and ultimately lead to the adherence of all the other governments of the world.

The discussions which have taken place between France and the United States have thus reached a point where it seems essential, if ultimate success is to be attained, that the British, German, Italian and Japanese Governments should each have an opportunity formally to decide to what extent, if any, its existing commitments constitute a bar to its participation with the United States in an unqualified renunciation of war. In these circumstances the Government of the

[1] Reprinted from *The General Pact*, as cited; p. 19 ff.; compare text as presented at London, *Correspondence with the United States Ambassador respecting the United States Proposal for the Renunciation of War*, p. 2 (Parl. Pap., United States No. 1 (1928), Cmd. 3109).

United States, having reached complete agreement with the Government of the French Republic as to this procedure, has instructed me formally to transmit herewith for the consideration of your Government the text of M. Briand's original proposal of last June, together with copies of the notes subsequently exchanged between France and the United States on the subject of a multilateral treaty for the renunciation of war.[1]

I have also been instructed by my Government to transmit herewith for consideration a preliminary draft of a treaty representing in a general way the form of treaty which the Government of the United States is prepared to sign with the French, British, German, Italian and Japanese Governments and any other Governments similarly disposed. It will be observed that the language of Arts. I and II of this draft treaty is practically identical with that of the corresponding articles in the treaty which M. Briand proposed to the United States.

The Government of the United States would be pleased to be informed as promptly as may be convenient whether Your Excellency's Government is in a position to give favorable consideration to the conclusion of a treaty such as that transmitted herewith, and if not, what specific modifications in the text thereof would make it acceptable.

[Inclosure]

TEXT OF SUGGESTED DRAFT TREATY

The President of the United States of America, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, the President of the German Empire, His Majesty the King of Italy, His Majesty the Emperor of Japan;

Deeply sensible that their high office imposes upon them a solemn duty to promote the welfare of mankind;

Inspired by a common desire not only to perpetuate the peaceful and friendly relations now happily subsisting between their peoples but also to prevent war among any of the nations of the world;

Desirous by formal act to bear unmistakable witness that they condemn war as an instrument of national policy and renounce it in favor of the pacific settlement of international disputes;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective plenipotentiaries;

[1] The notes printed in the previous section of this Appendix were attached as inclosures to this dispatch.

The President of the United States of America:

. . . . . .

The President of the French Republic:

. . . . . .

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

. . . . . .

The President of the German Empire:

. . . . . .

His Majesty the King of Italy:

. . . . . .

His Majesty the Emperor of Japan:

. . . . . .

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

Art. I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

Art. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

Art. III. The present treaty shall be ratified by the high contracting parties named in the preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at.....

This treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other powers of the world. Every instrument evidencing the adherence of a power shall be deposited at..... and the treaty shall immediately upon such deposit become effective as between the power thus adhering and the other powers parties hereto.

It shall be the duty of the Government of.....to furnish each Government named in the preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of.....telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective plenipotentiaries have signed this treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

Done at.....the.....day of.....in the year of our Lord one thousand nine hundred and twenty.....

2. Draft of Proposed Treaty submitted by the French Government to the United States, Great Britain, Germany, Italy and Japan, April 20, 1928[1]

[Translation]

The President of the German Empire, the President of the United States of America, the President of the French Republic, His Majesty the King of England, Ireland and the British Dominions, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan:

Equally desirous not only of perpetuating the happy relations of peace and friendship now existing among their peoples, but also to avoid the danger of war between all other nations in the world,

Having agreed to consecrate in a solemn act their most formal and most definite resolution to condemn war as an instrument of national policy and to renounce it in favor of a peaceful settlement of international conflicts,

Expressing, finally, the hope that all the other nations of the world will be willing to join in this humane effort to bring about the association of the civilized peoples in a common renunciation of war as an instrument of national policy, have decided to conclude a treaty and to that end have designated as their respective plenipotentiaries:

The President of the German Empire:

. . . . . .

The President of the United States of America:

. . . . . .

The President of the French Republic:

. . . . . .

His Majesty the King of Great Britain, Ireland and the British Dominions, Emperor of India:

. . . . . .

His Majesty the King of Italy:

. . . . . .

His Majesty the Emperor of Japan,

. . . . . .

who, after exchanging their full powers found to be in good and due form, have agreed on the following provisions:

[1] This draft was circulated as a matter of right by the French Government. In a press statement on April 13 relative to the American note and draft Secretary of State Kellogg said:

"The Government of France is not, however, in any way committed to approval of the draft treaty which I have proposed, and is entirely free to make such further observations on the subject of that treaty or of the correspondence heretofore exchanged with respect thereto, as may be deemed necessary or appropriate. Such observations would, of course, be addressed not only to the United States but to the other four powers, and by thus enlarging the field of negotiations make it possible for all six Governments fully to explore the entire situation."

ART. 1. The high contracting parties without any intention to infringe upon the exercise of their rights of legitimate self-defense within the framework of existing treaties, particularly when the violation of certain of the provisions of such treaties constitutes a hostile act, solemnly declare that they condemn recourse to war and renounce it as an instrument of national policy; that is to say, as an instrument of individual, spontaneous and independent political action taken on their own initiative and not action in respect of which they might become involved through the obligation of a treaty such as the Covenant of the League of Nations or any other treaty registered with the League of Nations. They undertake on these conditions not to attack or invade one another.

ART. 2. The settlement or solution of all disputes or conflicts of whatever nature or origin which might arise among the high contracting parties or between any two of them shall never be sought on either side except by pacific methods.

ART. 3. In case one of the high contracting parties should contravene this treaty, the other contracting powers would *ipso facto* be released with respect to that party from their obligations under this treaty.

ART. 4. The provisions of this treaty in no wise affect the rights and obligations of the contracting parties resulting from prior international agreements to which they are parties.

ART. 5. The present treaty will be offered for the accession of all powers and will have no binding force until it has been generally accepted unless the signatory powers in accord with those that may accede hereto shall agree to decide that it shall come into effect regardless of certain abstentions.

ART. 6. The present treaty shall be ratified.

The ratifications shall be deposited at.....; within three months from the date of the deposit of the ratifications it shall be communicated by the Government of.....to all the powers with an invitation to accede.

The Government of.....will transmit to each of the signatory powers and the powers that have acceded a duly certified copy of the instruments of accession as they are received.

One year after the expiration of the three months' period provided in Art. 5, the Government of.....will send out a statement of the signatories and accessions to all the powers that have signed or acceded.

In witness whereof the above named plenipotentiaries have signed this treaty and sealed it with their seal.

Done at.....in.....copies drawn up in French and English and all having equal force.

.....1928.

3. Reply of the German Government to the American Government's Note

[Translation]

BERLIN, *April 27, 1928.*

MR. AMBASSADOR:

In the note of April 13 and its inclosures Your Excellency informed me of the negotiations between the Government of the United States of America and the Government of France regarding the conclusion of an international pact for the outlawry of war. At the same time you asked me the question whether the Government was disposed to conclude such a pact in accordance with the draft put forward by the Government of the United States or whether it considered certain changes in this draft necessary.

The German Government has studied the question put by you with the care appropriate to the extraordinary importance of the matter. It was possible also in this study to take into consideration the draft treaty which had been drawn up in the meantime by the French Government and handed to the participating powers. As a result of this study I have the honor to inform Your Excellency of the following in the name of the German Government:

The German Government welcomes most warmly the opening of negotiations for the conclusion of an international pact for the outlawry of war. The two main ideas on which are based the initiative of the French Foreign Minister and the resulting proposal of the Government of the United States correspond completely with the principles of German policy. Germany has no higher interest than to see the possibility of armed conflicts eliminated and a development assured in the life of the nations which would guarantee the peaceful settlement of all international disputes. The conclusion of a pact such as the United States now has in view would certainly bring the nations a good deal nearer to this goal.

As the need of the nations for the assurance of peace since the world war has already led to other international agreements the necessity exists for the states participating therein to make sure in what relation the pact now proposed would stand to these international agreements already in force. You have already, Mr. Ambassador, referred in your note to the considerations which were put forward in this connection by the French Government in its exchange of views with the Government of the United States. So far as Germany is concerned these come into question as international agreements which might touch the substance of the new pact, the Covenant of the League of Nations and the Rhine pact of Locarno; other international obligations of this kind have not been entered into by Germany. Respect for the obligations arising from the Covenant of the League of Nations and the

Rhine pact must in the opinion of the German Government remain inviolable. The German Government is, however, convinced that these obligations contain nothing which could in any way conflict with the obligations provided for in the draft treaty of the United States. On the contrary, it believes that the binding obligation not to use war as an instrument of national policy could only serve to strengthen the fundamental idea of the Covenant of the League of Nations and of the Rhine pact. The German Government proceeds on the belief that a pact after the pattern submitted by the Government of the United States would not put in question the sovereign right of any state to defend itself. It is self-evident that if one state violates the pact the other contracting parties regain their freedom of action with reference to that state. The state affected by the violation of the pact is, therefore, not prevented from taking up arms on its own part against the breaker of the peace. In a pact of this kind to provide expressly for the case of a violation seems to the German Government unnecessary.

In agreement with the Government of the United States and with the French Government, the German Government is also of the opinion that the ultimate goal must be the universality of the new pact. In order to bring about this universality, the draft treaty of the United States seems to open a practical way. When the states first coming into question as signatory powers have concluded the pact it may be expected that the other states will thereupon make use of the right of adhesion which is assured to them without limitation or condition.

The German Government can accordingly declare that it is ready to conclude a pact in accordance with the proposal of the Government of the United States and to this end to enter into the necessary negotiations with the governments concerned. To this declaration the German Government adds, moreover, its definite expectation that the realization of a pact of such importance will not fail to make its influence felt forthwith on the state of international relations. Therefore, this new guaranty for the maintenance of peace must give a real impulse to the efforts for the carrying out of general disarmament. And further still, the renunciation of war must as a necessary complement enlarge the possibilities of settling in a peaceful way the existing and potential conflicts of national interests.

Accept [etc.]

STRESEMANN.

4. The Italian Minister of Foreign Affairs to the American Ambassador.

[Translation]

ROME, *May 4, 1928.*

I have the honor to refer to my note of April 23 relative to the proposal of the United States Government regarding a multilateral Anti-War Treaty.

I hardly need to assure you that Italy, adhering to the policy which she is constantly following, has welcomed with lively sympathy this initiative and offers very willingly her cordial collaboration towards reaching an agreement.

Your Excellency is aware of the fact that there is under consideration the proposal for a preliminary meeting of the legal experts of the powers whose direct interest in the proposed treaty has been enlisted. The Royal Government has adhered to this procedure but has clearly pointed out that in its opinion such a meeting can only be effective if the participation of a legal expert of the Government of the United States is assured.

In accordance with this order of ideas I beg Your Excellency to communicate to Mr. Kellogg the live desire of the Royal Government that the participation of the United States in the preliminary meeting mentioned above be not lacking.

I avail [etc.]

(Signed) MUSSOLINI.

5. The Minister for Foreign Affairs of Japan, Baron Giichi Tanaka, to the American Ambassador in Tokyo, Charles MacVeagh

[Translation]

TOKYO, *May 26, 1928.*

MR. AMBASSADOR:

I have the honor to acknowledge the receipt of Your Excellency's note No. 336 of April 13, last, transmitting to me under instructions from the Government of the United States the preliminary draft of a proposed multilateral treaty representing in a general way a form of treaty which the Government of the United States is prepared to sign with the French, German, British, Italian and Japanese Governments and any other governments similarly disposed with the object of securing the renunciation of war. At the same time Your Excellency enclosed a copy of the correspondence recently exchanged between the Governments of the United States and the French Republic commencing with a proposal put forward by Monsieur Briand in June, 1927; and you intimated that the Government of the United States desired to be informed whether the Japanese Government were in a position to give favorable consideration to the conclusion of such a treaty as that of which you enclosed a draft — and if not, what specific modification in the text would make it acceptable.

I beg to inform Your Excellency that the Government of Japan sympathize warmly with the high and beneficent aims of the proposal now made by the United States, which they take to imply the entire abolition of the institution of war, and that they will be glad to render their most cordial cooperation towards the attainment of that end.

The proposal of the United States is understood to contain nothing

that would refuse to independent states the right of self-defense, and nothing which is incompatible with the obligations of agreements guaranteeing the public peace, such as are embodied in the Covenant of the League of Nations and the treaties of Locarno. Accordingly, the Imperial Government firmly believe that unanimous agreement on a mutually acceptable text for such a treaty as is contemplated is well capable of realization by discussion between the six powers referred to, and they would be happy to collaborate with cordial good will in the discussions with the purpose of securing what they are persuaded is the common desire of all the peoples of the world — namely, the cessation of wars and the definite establishment among the nations of an era of permanent and universal peace.

I avail myself of this occasion to renew to Your Excellency, the assurance of my highest consideration.

(Signed) BARON GIICHI TANAKA,
Minister.

6. The Secretary of State for Foreign Affairs of Great Britain, Sir Austen Chamberlain, to the American Ambassador in London, Alanson B. Houghton

FOREIGN OFFICE, *May 19, 1928.*

YOUR EXCELLENCY:

Your note of April 13, containing the text of a draft treaty for the renunciation of war, together with copies of the correspondence between the United States and French Governments on the subject of this treaty, has been receiving sympathetic consideration at the hands of His Majesty's Government in Great Britain. A note has also been received from the French Government, containing certain suggestions for discussion in connection with the proposed treaty and the German Government were good enough to send me a copy of the reply which has been made by them to the proposals of the United States Government.

2. The suggestion for the conclusion of a treaty for the renunciation of war as an instrument of national policy has evoked widespread interest in this country and His Majesty's Government will support the movement to the utmost of their power.

3. After making a careful study of the text contained in Your Excellency's note and of the amended text suggested in the French note, His Majesty's Government feel convinced that there is no serious divergence between the effect of these two drafts. This impression is confirmed by a study of the text of the speech by the Secretary of State of the United States to which Your Excellency drew my attention and which he delivered before the American Society of International Law

on April 28. The aim of the United States Government, as I understand it, is to embody in a treaty a broad statement of principle, to proclaim without restriction or qualification that war shall not be used as an instrument of policy. With this aim His Majesty's Government are wholly in accord. The French proposals, equally imbued with the same purpose have merely added an indication of certain exceptional circumstances in which the violation of that principle by one party may oblige the others to take action seeming at first sight to be inconsistent with the terms of the proposed pact. His Majesty's Government appreciate the scruples which have prompted these suggestions by the French Government. The exact fulfilment of treaty engagements is a matter which affects national honor; precision as to the scope of such engagements is, therefore, of importance. Each of the suggestions made by the French Government has been carefully considered from this point of view.

4. After studying the wording of Art. 1 of the United States draft His Majesty's Government do not think that its terms exclude action which a state may be forced to take in self-defense. Mr. Kellogg has made it clear in the speech to which I have referred above that he regards the right of self-defense as inalienable and His Majesty's Government are disposed to think that on this question no addition to the text is necessary.

5. As regards the text of Art. 2, no appreciable difference is found between the American and French proposals. His Majesty's Government are, therefore, content to accept the former if, as they understand to be the case, a dispute "among the high contracting parties" is a phrase wide enough to cover a dispute between any two of them.

6. The French note suggests the addition of an article providing that violation of the treaty by one of the parties should release the remainder from their obligations under the treaty toward that party. His Majesty's Government are not satisfied that, if the treaty stood alone, the addition of some such provision would not be necessary. Mr. Kellogg's speech, however, shows that he put forward for acceptance the text of the proposed treaty upon the understanding that violation of the undertaking by one party would free the remaining parties from the obligation to observe its terms in respect of the treaty-breaking state.

7. If it is agreed that this is the principle which will apply in the case of this particular treaty, His Majesty's Government are satisfied and will not ask for the insertion of any amendment. Means can no doubt be found without difficulty of placing this understanding on record in some appropriate manner so that it may have equal value with the terms of the treaty itself.

8. The point is one of importance because of its bearing on the treaty engagements by which His Majesty's Government are already bound. The preservation of peace has been the chief concern of His Majesty's

Government and the prime object of all their endeavors. It is the reason why they have given ungrudging support to the League of Nations, and why they have undertaken the burden of the guaranty embodied in the Locarno treaty. The sole object of all these engagements is the elimination of war as an instrument of national policy, just as it is the purpose of the peace pact now proposed. It is because the object of both is the same that there is no real antagonism between the treaty engagements which His Majesty's Government have already accepted and the pact which is now proposed. The machinery of the Covenant and of the treaty of Locarno, however, go somewhat further than a renunciation of war as a policy, in that they provide certain sanctions for a breach of their obligations. A clash might thus conceivably arise between the existing treaties and the proposed pact unless it is understood the obligations of the new engagement will cease to operate in respect of a party which breaks its pledges and adopts hostile measures against one of its co-contractants.

9. For the Government of this country, respect for the obligations arising out of the Covenant of the League of Nations and out of the Locarno treaties is fundamental. Our position in this regard is identical with that of the German Government as indicated in their note of the 27th April. His Majesty's Government could not agree to any new treaty which would weaken or undermine these engagements on which the peace of Europe rests. Indeed, public interest in this country in scrupulous fulfilment of these engagements is so great that His Majesty's Government would for their part prefer to see some such provision as Art. 4 of the French draft embodied in the text of the treaty. To this we understand there will be no objection. Mr. Kellogg has made it clear in the speech to which I have drawn attention that he had no intention by the terms of the new treaty of preventing the parties to the Covenant of the League or to the Locarno treaty from fulfilling their obligations.

10. The language of Art. 1 as to the renunciation of war as an instrument of national policy renders it desirable that I should remind Your Excellency that there are certain regions of the world the welfare and integrity of which constitute a special and vital interest for our peace and safety. His Majesty's Government have been at pains to make it clear in the past that interference with these regions can not be suffered. Their protection against attack is to the British Empire a measure of self-defense. It must be clearly understood that His Majesty's Government in Great Britain accept the new treaty upon the distinct understanding that it does not prejudice their freedom of action in this respect. The Government of the United States have comparable interests any disregard of which by a foreign power they have declared that they would regard as an unfriendly act. His Majesty's Government believe, therefore, that in defining their position they are expressing the intention and meaning of the United States Government.

11. As regards the measure of participation in the new treaty before it would come into force, His Majesty's Government agree that it is not necessary to wait until all the nations of the world have signified their willingness to become parties. On the other hand, it would be embarrassing if certain states in Europe with whom the proposed participants are already in close treaty relations were not included among the parties. His Majesty's Government see no reason, however, to doubt that these states will gladly accept its terms. Universality would, in any case, be difficult of attainment, and might even be inconvenient for there are some states whose Governments have not yet been universally recognized, and some which are scarcely in a position to insure the maintenance of good order and security within their territories. The conditions for the inclusion of such states among the parties to the new treaty is a question to which further attention may perhaps be devoted with advantage. It is, however, a minor question as compared with the attainment of the more important purpose in view.

12. After this examination of the terms of the proposed treaty and of the points to which it gives rise, Your Excellency will realize that His Majesty's Government find nothing in their existing commitments which prevents their hearty cooperation in this new movement for strengthening the foundations of peace. They will gladly cooperate in the conclusion of such a pact as is proposed and are ready to engage with the interested Governments in the negotiations which are necessary for the purpose.

13. Your Excellency will observe that the detailed arguments in the foregoing paragraphs are expressed on behalf of His Majesty's Government in Great Britain. It will, however, be appreciated that the proposed treaty from its very nature is not one which concerns His Majesty's Government in Great Britain alone, but is one in which they could not undertake to participate otherwise than jointly and simultaneously with His Majesty's Governments in the Dominions and the Government of India. They have, therefore, been in communication with those Governments and I am happy to be able to inform Your Excellency that, as a result of the communications which have passed, it has been ascertained that they are all in cordial agreement with the general principle of the proposed treaty. I feel confident, therefore, that on receipt of an invitation to participate in the conclusion of such a treaty, they, no less than His Majesty's Government in Great Britain, will be prepared to accept the invitation.

I avail [etc.]

AUSTEN CHAMBERLAIN.

III. INCLUSION OF SELF-GOVERNING DOMINIONS [1]

1. Note to His Britannic Majesty's Governments in Canada, Irish Free State, Australia, New Zealand, South Africa and India, May 22, 1928

In the note which he addressed to the American Ambassador at London on May 19, 1928, Sir Austen Chamberlain was good enough to inform my Government that His Majesty's Government in Great Britain had been in communication with His Majesty's Governments in the Dominions and with the Government of India, and had ascertained that they were all in cordial agreement with the general principle of the multilateral treaty for the renunciation of war which the Government of the United States proposed on April 13, 1928. Sir Austen added that he felt confident, therefore, that His Majesty's Governments in the Dominions and the Government of India were prepared to accept an invitation to participate in the conclusion of such a treaty as that proposed by the Government of the United States.

I have been instructed to state to Your Excellency that my Government has received this information with the keenest satisfaction. My Government has hoped from the outset of the present negotiations that the Governments of the Dominions and the Government of India would feel disposed to become parties to the suggested anti-war treaty. It is moreover most gratifying to the Government of the United States to learn that His Majesty's Governments in the Dominions and the Government of India are so favorably inclined towards the treaty for the renunciation of war which my Government proposed on April 13, 1928, as to wish to participate therein individually and as original signatories, and my Government, for its part, is most happy to accede to the suggestion contained in Sir Austen Chamberlain's note of May 19, 1928, to the American Ambassador at London.

Accordingly I have been instructed to extend to His Majesty's Government in Canada, in the name of the Government of the United States, a cordial invitation to become one of the original parties to the treaty for the renunciation of war which is now under consideration. Pursuant to my instructions I also have the honor to inform you that the Government of the United States will address to His Majesty's Government in Canada, at the same time and in the same manner as to the other Governments whose participation in the proposed treaty

[1] *Loc. cit.*, p. 29, 31-36.

in the first instance is contemplated, any further communications which it may make on the subject of the treaty after it has been acquainted with the views of all the Governments to which its note of April 13, 1928, was addressed.

2. Canadian Reply

OFFICE OF THE SECRETARY OF STATE FOR
EXTERNAL AFFAIRS, CANADA,
OTTAWA, *May 30, 1928.*

The Honorable WILLIAM PHILLIPS,
Minister of the United States of America, Ottawa.

SIR:

I have the honor to acknowledge your note of May 22, extending to His Majesty's Government in Canada, in the name of the Government of the United States, an invitation to become one of the original parties to the treaty for the renunciation of war now under consideration.

The Government of Canada is certain that it speaks for the whole Canadian people in welcoming the outcome, in the proposed multilateral pact, of the discussion initiated almost a year ago between the Governments of France and of the United States. It is pleased to find that in this attitude it is in accord with all His Majesty's other governments. The proposals of the United States Government, by their directness and simplicity, afford to the peoples of the world a new and notable opportunity of insuring lasting peace.

The Dominion of Canada, fortunate in its ties of kinship and allegiance as well as in its historic and neighborly friendships, and with half a continent as its heritage, is less exposed to the danger of attack or the temptation to aggression than many other lands. Yet the Great War, with its burdens of suffering and of loss, brought home the danger which all countries share, and led Canada to turn with hope to the efforts to build up effective barriers against war which took shape in the League of Nations; it will welcome the present proposals as a manifestation of the same striving for peace.

The question whether the obligations of the Covenant of the League would conflict in any way with the obligations of the proposed pact has been given careful consideration. His Majesty's Government in Canada regards the League, with all its limitations, as an indispensable and continuing agency of international understanding, and would not desire to enter upon any course which would prejudice its effectiveness. It is, however, convinced that there is no conflict either in the letter or in the spirit between the Covenant and the multilateral pact, or between the obligations assumed under each.

The preeminent value of the League lies in its positive and preventive action. In bringing together periodically the representatives of fifty states, it builds up barriers against war by developing a spirit of conciliation, an acceptance of publicity in international affairs, a habit of

cooperation in common ends, and a permanently available machinery for the adjustment of differences. It is true that the Covenant also contemplates the application of sanctions in the event of a Member state going to war, if in so doing it has broken the pledges of the Covenant to seek a peaceful solution of disputes. Canada has always opposed any interpretation of the Covenant which would involve the application of these sanctions automatically or by the decision of other states. It was on the initiative of Canada that the Fourth Assembly, with a single negative vote, accepted the interpretative resolution to which the Secretary of State of the United States recently referred, indicating that it is for the constitutional authorities of each state to determine in what degree it is bound to assure the execution of the obligations of this article by employment of its military forces. The question of sanctions has received further consideration by later Assemblies. It is plain that the full realization of the ideal of joint economic or military pressure upon an outlaw power, upon which some of the founders of the League set great store, will require either an approach to the universality of the League contemplated when the Covenant was being drawn, or an adjustment of the old rules of neutrality to meet the new conditions of cooperative defense.

In any event, if, as would seem to be the case, the proposed multilateral treaty does not impose any obligation upon a signatory in relation to a state which has not signed the treaty or has broken it, any decision taken to apply sanctions against a Member of the League which has made war in violation of its Covenant pledges would not appear to conflict with the obligations of the treaty.

His Majesty's Government in Canada will have pleasure in cooperating in any future negotiations with a view to becoming a signatory to a treaty such as is proposed by the Government of the United States in the invitation which it has extended, and to recommending its acceptance to the Canadian Parliament.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) W. L. Mackenzie King.

3. Reply of the Irish Free State Government to Minister Sterling at Dublin

Dublin, *May 30, 1928.*

Excellency:

I have the honor to acknowledge receipt of Your Excellency's note of 22nd May referring to the draft treaty for the renunciation of war and extending an invitation from your Government to the Government of the Irish Free State to become one of the original parties to the proposed treaty.

The Government of the Irish Free State warmly welcome the action of the United States Government in initiating this further advance

toward the maintenance of general peace. They are in cordial agreement with the general principle of the draft treaty which they confidently hope will insure the peaceful settlement of future international disputes.

Sharing the view expressed by the Secretary of State of the United States in his speech before the American Society of International Law that nothing in the draft treaty is inconsistent with the Covenant of the League of Nations, the Government of the Irish Free State accept unreservedly the invitation of the United States Government to become a party to the treaty jointly with the other states similarly invited.

The Government of the Irish Free State will be glad therefore to participate in, and to further by every possible means, the negotiations which may be necessary for the conclusion of the pact.

Accept Excellency the renewed assurance of my highest consideration.

(Signed) P. McGilligan.

4. Reply of the New Zealand Government through the British Ministry for Foreign Affairs

London, *May 30, 1928.*

Sir:

In the note which Mr. Houghton was so good as to address to me on May 22 he extended on behalf of the Government of the United States an invitation to His Majesty's Governments in the Commonwealth of Australia, New Zealand and in the Union of South Africa as well as to the Government of India to participate individually and as original signatories in the treaty for the renunciation of war which is now under consideration.

I now have the honor to inform you that His Majesty's Government in New Zealand have received with warm appreciation the invitation addressed to New Zealand to become an original party to the treaty proposed by the Government of the United States for the renunciation of war. His Majesty's Government in New Zealand were presented the opportunity, in cooperation with His Majesty's Governments in other parts of the British Empire, of associating themselves with the Government of the United States in this movement to add greater security to the peace of the world and they will be happy to share in any negotiations leading to the conclusion of the proposed treaty.

I have the honor to be,

With high consideration,

Sir,

Your obedient servant,

(For the Secretary of State)

(Signed) R. L. Craigie.

5. Reply of the Commonwealth of Australia through the British Ministry for Foreign Affairs

LONDON, *June 2, 1928.*

SIR:

In the note which Mr. Houghton was so good as to address to me on May 22 last he extended on behalf of the Government of the United States an invitation to His Majesty's Government in the Commonwealth of Australia to participate individually and as an original signatory in the treaty for the renunciation of war which is now under consideration.

I now have the honor to inform you that His Majesty's Government in the Commonwealth of Australia have received with appreciation the invitation to participate as an original party in the treaty for the renunciation of war which has been proposed by the Government of the United States of America. His Majesty's Government in the Commonwealth of Australia have carefully and sympathetically examined the draft treaty submitted to them together with the correspondence that has so far been exchanged between the interested governments. They believe that a treaty such as that proposed would be a further material safeguard to the peace of the world and they will be happy to cooperate to the fullest extent in its successful conclusion.

I have the honor to be,

With high consideration,

Sir,

Your obedient servant,

(For the Secretary of State)

(Signed) R. L. CRAIGIE.

6. Reply of the Government of India through the British Ministry for Foreign Affairs

LONDON, *June 11, 1928.*

SIR:

In the note which Mr. Houghton was so good as to address to me on the 23rd, ultimo, he extended on behalf of the Government of the United States an invitation to the Government of India to participate individually and as an original signatory in the treaty for the renunciation of war which is now under consideration.

I now have the honor to inform you that the Government of India have requested that an expression of their warm thanks may be conveyed to the United States Government for this invitation which they are happy to accept. I have the honor to add that the Government of

India desire to associate themselves with the note which I had the honor to address to Mr. Houghton on the 19th ultimo.

I have the honor to be with high consideration,

Sir,

Your obedient servant,

(For the Secretary of State)

R. L. CRAIGIE.

7. Reply of the Government of the Union of South Africa through the British Ministry for Foreign Affairs

LONDON, *June 15, 1928.*

RAY ATHERTON, Esquire,

American Chargé d'Affaires ad interim, London.

SIR:

With reference to the note which Mr. Houghton was so good as to address to me on the 22d May conveying an invitation to His Majesty's Government in the Union of South Africa to become an original party to the proposed treaty for the renunciation of war, I have the honor to inform you that the following message has been received by telegraph from General Hertzog, Minister of External Affairs of State, the Union of South Africa, for communication to you:

"Through the good offices of His Majesty's Government in the United Kingdom the contents of the note addressed by Your Excellency to His Excellency the British Secretary of State for Foreign Affairs on the 22d May were duly conveyed to me. On behalf of His Majesty's Government in the Union of South Africa I beg to state that the cordial invitation of the Government of the United States extended to His Majesty's Government in the Union of South Africa to participate individually and as an original signatory in the treaty for the renunciation of war which the United States Government proposed to various governments on the 13th April last, is highly appreciated, and that His Majesty's Government in the Union of South Africa will gladly take part therein as invited together with the other Governments whose participation in the proposed treaty was invited in the first instance.

"In expressing their willingness to be a party to the proposed treaty His Majesty's Government in the Union of South Africa take it for granted —

"(*a*) That it is not intended to deprive any party to the proposed treaty of any of its natural right of legitimate self-defense;

"(*b*) That a violation by any one of the parties of any of the provisions of the proposed treaty will free the other parties from obligation to observe its terms in respect of the party committing such violation; and

"(*c*) That provision will be made for rendering it quite clear that it is not intended that the Union of South Africa by becoming a party to the proposed treaty would be precluded from fulfilling as a Member of the League of Nations its obligations towards the other Members thereof under the provisions of the Covenant of the League."

I have the honor to be

With high consideration,

Sir,

Your obedient servant,

(For the Secretary of State)

(Signed) R. L. Craigie.

IV. SECOND AMERICAN DRAFT

1. Identic Notes to the Governments of Australia, Belgium,[1] Canada, Czechoslovakia,[1] France, Germany, Great Britain, India, Irish Free State, Italy, Japan, New Zealand, Poland,[1] and South Africa, and accompanying Draft Multilateral Treaty for the Renunciation of War, delivered at the Respective Foreign Offices, June 23, 1928

EXCELLENCY:

It will be recalled that, pursuant to the understanding reached between the Government of France and the Government of the United States, the American Ambassadors at London, Berlin, Rome and Tokyo transmitted on April 13, 1928, to the Governments to which they were respectively accredited the text of M. Briand's original proposal of June 20, 1927, together with copies of the notes subsequently exchanged by France and the United States on the subject of a multilateral treaty for the renunciation of war. At the same time the Government of the United States also submitted for consideration a preliminary draft of a treaty representing in a general way the form of treaty which it was prepared to sign, and inquired whether the Governments thus addressed were in a position to give favorable consideration thereto. The text of the identic notes of April 13, 1928, and a copy of the draft treaty transmitted therewith, were also brought to the attention of the Government of France by the American Ambassador at Paris.

It will likewise be recalled that on April 20, 1928, the Government of the French Republic circulated among the other interested Governments, including the Government of the United States, an alternative draft treaty, and that in an address which he delivered on April 28, 1928, before the American Society of International Law, the Secretary of State of the United States explained fully the construction placed by my Government upon the treaty proposed by it, referring as follows to the six major considerations emphasized by France in its alternative draft treaty and prior diplomatic correspondence with my Government:

(1) *Self-defense.* There is nothing in the American draft of an anti-war treaty which restricts or impairs in any way the right of self-defense. That right is inherent in every sovereign state and is implicit in every

[1] Added to include all parties to Locarno treaties.

treaty. Every nation is free at all times and regardless of treaty provisions to defend its territory from attack or invasion and it alone is competent to decide whether circumstances require recourse to war in self-defense. If it has a good case, the world will applaud and not condemn its action. Express recognition by treaty of this inalienable right, however, gives rise to the same difficulty encountered in any effort to define aggression. It is the identical question approached from the other side. Inasmuch as no treaty provision can add to the natural right of self-defense, it is not in the interest of peace that a treaty should stipulate a juristic conception of self-defense since it is far too easy for the unscrupulous to mold events to accord with an agreed definition.

(2) *The League Covenant.* The Covenant imposes no affirmative primary obligation to go to war. The obligation, if any, is secondary and attaches only when deliberately accepted by a state. Art. 10 of the Covenant has, for example, been interpreted by a resolution submitted to the Fourth Assembly but not formally adopted owing to one adverse vote to mean that "it is for the constitutional authorities of each member to decide, in reference to the obligation of preserving the independence and the integrity of the territory of members, in what degree the member is bound to assure the execution of this obligation by employment of its military forces." There is, in my opinion, no necessary inconsistency between the Covenant and the idea of an unqualified renunciation of war. The Covenant can, it is true, be construed as authorizing war in certain circumstances but it is an authorization and not a positive requirement.

(3) *The Treaties of Locarno.* If the parties to the treaties of Locarno are under any positive obligation to go to war, such obligation certainly would not attach until one of the parties has resorted to war in violation of its solemn pledges thereunder. It is therefore obvious that if all the parties to the Locarno treaties become parties to the multilateral anti-war treaty proposed by the United States, there would be a double assurance that the Locarno treaties would not be violated by recourse to arms. In such event it would follow that resort to war by any state in violation of the Locarno treaties would also be a breach of the multilateral anti-war treaty and the other parties to the anti-war treaty would thus as a matter of law be automatically released from their obligations thereunder and free to fulfill their Locarno commitments. The United States is entirely willing that all parties to the Locarno treaties should become parties to its proposed anti-war treaty either through signature in the first instance or by immediate accession to the treaty as soon as it comes into force in the manner provided in Art. III of the American draft, and it will offer no objection when and if such a suggestion is made.

(4) *Treaties of neutrality.* The United States is not informed as to the precise treaties which France has in mind and can not therefore dis-

cuss their provisions. It is not unreasonable to suppose, however, that the relations between France and the states whose neutrality she has guaranteed are sufficiently close and intimate to make it possible for France to persuade such states to adhere seasonably to the anti-war treaty proposed by the United States. If this were done no party to the anti-war treaty could attack the neutralized states without violating the treaty and thereby automatically freeing France and the other powers in respect of the treaty-breaking state from the obligations of the anti-war treaty. If the neutralized states were attacked by a state not a party to the anti-war treaty, the latter treaty would of course have no bearing and France would be as free to act under the treaties guaranteeing neutrality as if she were not a party to the anti-war treaty. It is difficult to perceive, therefore, how treaties guaranteeing neutrality can be regarded as necessarily preventing the conclusion by France or any other power of a multilateral treaty for the renunciation of war.

(5) *Relations with a treaty-breaking state.* As I have already pointed out there can be no question as a matter of law that violation of a multilateral anti-war treaty through resort to war by one party thereto would automatically release the other parties from their obligations to the treaty-breaking state. Any express recognition of this principle of law is wholly unnecessary.

(6) *Universality.* From the beginning it has been the hope of the United States that its proposed multilateral anti-war treaty should be world-wide in its application, and appropriate provision therefor was made in the draft submitted to the other Governments on April 13. From a practical standpoint it is clearly preferable, however, not to postpone the coming into force of an anti-war treaty until all the nations of the world can agree upon the text of such a treaty and cause it to be ratified. For one reason or another a state so situated as to be no menace to the peace of the world might obstruct agreement or delay ratification in such manner as to render abortive the efforts of all the other powers. It is highly improbable, moreover, that a form of treaty acceptable to the British, French, German, Italian and Japanese Governments as well as to the United States would not be equally acceptable to most, if not all, of the other powers of the world. Even were this not the case, however, the coming into force among the above-named six powers of an effective anti-war treaty and their observance thereof would be a practical guaranty against a second world war. This in itself would be a tremendous service to humanity and the United States is not willing to jeopardize the practical success of the proposal which it has made by conditioning the coming into force of the treaty upon prior universal or almost universal acceptance.

The British, German, Italian and Japanese Governments have now replied to my Government's notes of April 13, 1928, and the Governments of the British Dominions and of India have likewise replied to

the invitations addressed to them on May 22, 1928, by my Government pursuant to the suggestion conveyed in the note of May 19, 1928, from His Majesty's Government in Great Britain. None of these Governments has expressed any dissent from the above-quoted construction, and none has voiced the least disapproval of the principle underlying the proposal of the United States for the promotion of world peace. Neither has any of the replies received by the Government of the United States suggested any specific modification of the text of the draft treaty proposed by it on April 13, 1928, and my Government, for its part, remains convinced that no modification of the text of its proposal for a multilateral treaty for the renunciation of war is necessary to safeguard the legitimate interests of any nation. It believes that the right of self-defense is inherent in every sovereign state and implicit in every treaty. No specific reference to that inalienable attribute of sovereignty is therefore necessary or desirable. It is no less evident that resort to war in violation of the proposed treaty by one of the parties thereto would release the other parties from their obligations under the treaty towards the belligerent state. This principle is well recognized. So far as the Locarno treaties are concerned, my Government has felt from the very first that participation in the anti-war treaty by the powers which signed the Locarno agreements, either through signature in the first instance or thereafter, would meet every practical requirement of the situation, since in such event no state could resort to war in violation of the Locarno treaties without simultaneously violating the anti-war treaty, thus leaving the other parties thereto free, so far as the treaty-breaking state is concerned. As Your Excellency knows, the Government of the United States has welcomed the idea that all parties to the treaties of Locarno should be among the original signatories of the proposed treaty for the renunciation of war and provision therefor has been made in the draft treaty which I have the honor to transmit herewith. The same procedure would cover the treaties guaranteeing neutrality to which the Government of France has referred. Adherence to the proposed treaty by all parties to these other treaties would completely safeguard their rights since subsequent resort to war by any of them or by any party to the anti-war treaty would violate the latter treaty as well as the neutrality treaty, and thus leave the other parties to the anti-war treaty free, so far as the treaty-breaking state is concerned. My Government would be entirely willing, however, to agree that the parties to such neutrality treaties should be original signatories of the multilateral anti-war treaty, and it has no reason to believe that such an arrangement would meet with any objection on the part of the other Governments now concerned in the present negotiations.

While my Government is satisfied that the draft treaty proposed by it on April 13, 1928, could be properly accepted by the powers of the world without change except for including among the original signatories

the British Dominions, India, all parties to the treaties of Locarno and, it may be, all parties to the neutrality treaties mentioned by the Government of France, it has no desire to delay or complicate the present negotiations by rigidly adhering to the precise phraseology of that draft particularly since it appears that by modifying the draft in form though not in substance, the points raised by other Governments can be satisfactorily met and general agreement upon the text of the treaty to be signed be promptly reached. The Government of the United States has therefore decided to submit to the 14 other Governments now concerned in these negotiations a revised draft of a multilateral treaty for the renunciation of war. The text of this revised draft is identical with that of the draft proposed by the United States on April 13, 1928, except that the preamble now provides that the British Dominions, India and all parties to the treaties of Locarno are to be included among the powers called upon to sign the treaty in the first instance, and except that the first three paragraphs of the preamble have been changed to read as follows:

> "Deeply sensible of their solemn duty to promote the welfare of mankind;
>
> "Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;
>
> "Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;"

The revised preamble thus gives express recognition to the principle that if a state resorts to war in violation of the treaty, the other contracting parties are released from their obligations under the treaty to that state; it also provides for participation in the treaty by all parties to the treaties of Locarno, thus making it certain that resort to war in violation of the Locarno treaties would also violate the present treaty and release not only the other signatories of the Locarno treaties but also the other signatories to the anti-war treaty from their obligations to the treaty-breaking state. Moreover, as stated above, my Government would be willing to have included among the original signatories the parties to the neutrality treaties referred to by the Government of the French Republic, although it believes that the interests of those states would be adequately safeguarded if, instead of signing in the first instance, they should choose to adhere to the treaty.

In these circumstances I have the honor to transmit herewith for the consideration of Your Excellency's Government a draft of a multi-

lateral treaty for the renunciation of war containing the changes outlined above. I have been instructed to state in this connection that the Government of the United States is ready to sign at once a treaty in the form herein proposed, and to express the fervent hope that the Government of.....will be able promptly to indicate its readiness to accept, without qualification or reservation, the form of treaty now suggested by the United States. If the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland, South Africa and the United States can now agree to conclude this anti-war treaty among themselves, my Government is confident that the other nations of the world will, as soon as the treaty comes into force, gladly adhere thereto, and that this simple procedure will bring mankind's age-long aspirations for universal peace nearer to practical fulfilment than ever before in the history of the world.

I have the honor to state in conclusion that the Government of the United States would be pleased to be informed at as early a date as may be convenient whether Your Excellency's Government is willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form transmitted herewith.

[Inclosure]

TEXT OF DRAFT TREATY

The President of the United States of America, the President of the French Republic, His Majesty the King of the Belgians, the President of the Czechoslovak Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, the President of the German Reich, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland;

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations

of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective Plenipotentiaries:

The President of the United States of America

.....

The President of the French Republic

.....

His Majesty the King of the Belgians

.....

The President of the Czechoslovak Republic

.....

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India

For Great Britain and Northern Ireland and all parts of the British Empire which are not separate members of the League of Nations

....

For the Dominion of Canada

.....

For the Commonwealth of Australia

.....

For the Dominion of New Zealand

.....

For the Union of South Africa

.....

For the Irish Free State

.....

For India

.....

The President of the German Reich

.....

His Majesty the King of Italy

.....

His Majesty the Emperor of Japan

.....

The President of the Republic of Poland

.....

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

Art. I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

Art. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever

origin they may be, which may arise among them, shall never be sought except by pacific means.

ART. III. The present treaty shall be ratified by the high contracting parties named in the preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at.....

This treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other powers of the world. Every instrument evidencing the adherence of a power shall be deposited at.....and the treaty shall immediately upon such deposit become effective as between the power thus adhering and the other powers parties hereto.

It shall be the duty of the Government of.....to furnish each Government named in the preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of.....telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective plenipotentiaries have signed this treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

Done at.....the.....day of.....in the year of our Lord one thousand nine hundred and twenty.....

2. Reply of the German Government, July 11, 1928

[Translation]

BERLIN, *July 11, 1928.*

EXCELLENCY:

I acknowledge the receipt of Your Excellency's note of June 23, 1928, regarding the conclusion of an international pact for the renunciation of war, and have the honor to reply thereto as follows on behalf of the German Government:

The German Government has examined with the greatest care the contents of the note and the revised draft of the pact which was inclosed. The Government is pleased to state that the standpoint of the Government of the United States of America as set forth in the note corresponds with the fundamental German conception as it was communicated in the note of April 27, 1928. The German Government also agrees to the changes in the preamble of the draft of the pact. It is therefore pleased to be able to state that it takes cognizance of the statements made by the Government of the United States of America contained in Your Excellency's note of June 23, that it agrees to the interpretation which is given therein to the provision of the proposed

pact and that it is accordingly ready to sign this pact in the form now proposed.

Please accept, etc.

(Signed) SCHUBERT.

3. Reply of the French Government, July 14, 1928

[Translation]

PARIS, *July 14, 1928.*

MR. AMBASSADOR:

By your letter of June 23 last Your Excellency was good enough to transmit to me a revised text of the draft treaty for the renunciation of war accompanied by the interpretations given to it by the United States.

I beg you to convey to the Government of the United States the interest with which the Government of the Republic has taken cognizance of this new communication which is suited to facilitate the signature of the treaty whose successful conclusion is equally close to the hearts of the French and American nations.

First of all it follows from the new preamble that the proposed treaty indeed aims at the perpetuation of the pacific and friendly relations under the contractual conditions in which they are to-day established between the interested nations; that it is essentially a question for the signatory powers of renouncing war "as an instrument of their national policy" and also that the signatory power which hereafter might seek, by itself resorting to war, to promote its own national interests should be denied the benefits of the treaty.

The Government of the Republic is happy to declare that it is in accord with these new stipulations.

The Government of the Republic is happy moreover to take note of the interpretations which the Government of the United States gives to the new treaty with a view to satisfying the various observations which had been formulated from the French point of view.

These interpretations may be resumed as follows:

Nothing in the new treaty restrains or compromises in any manner whatsoever the right of self-defense. Each nation in this respect will always remain free to defend its territory against attack or invasion; it alone is competent to decide whether circumstances require recourse to war in self-defense.

Secondly, none of the provisions of the new treaty is in opposition to the provisions of the Covenant of the League of Nations nor with those of the Locarno treaties or the treaties of neutrality.

Moreover any violation of the new treaty by one of the contracting parties would automatically release the other contracting powers from their obligations to the treaty-breaking state.

Finally, the signature which the Government of the United States has now offered to all the signatory powers of the treaties concluded at

Locarno and which it is disposed to offer to all powers parties to treaties of neutrality as well as the adherence made possible to other powers is of a nature to give the new treaty in as full measure as can practically be desired, the character of generality which accords with the views of the Government of the Republic.

Thanks to the clarification given by the new preamble and thanks moreover to the interpretations given to the treaty, the Government of the Republic congratulates itself that the new convention is compatible with the obligations of existing treaties to which France is otherwise a contracting party and the integral respect of which is necessarily imperatively imposed upon her by good faith and loyalty.

In this situation and under these circumstances the Government of the Republic is happy to be able to declare to the Government of the United States that it is now entirely disposed to sign the treaty as proposed by the letter of Your Excellency of June 23, 1928.

At the moment of thus assuring its contribution to the realization of a long matured project, all the moral significance of which it had gauged from the beginning, the Government of the Republic desires to render homage to the generous spirit in which the Government of the United States has conceived this new manifestation of human fraternity which eminently conforms to the profound aspirations of the French people as well as of the American people and responds to the sentiment more and more widely shared among peoples of international solidarity.

Please accept, etc.

(Signed) ARISTIDE BRIAND.

4. Reply of the Government of the Irish Free State, July 14, 1928

DUBLIN, *July 14, 1928.*

EXCELLENCY:

Your Excellency's note of the 23d June inclosing a revised draft of proposed treaty for the renunciation of war has been carefully studied by the Government of the Irish Free State.

As I informed you in my note of the 30th May, the Government of the Irish Free State were prepared to accept unreservedly the draft treaty proposed by your Government on the 13th April, holding, as they did, that neither their right of self-defense nor their commitments under the Covenant of the League of Nations were in any way prejudiced by its terms.

The draft treaty as revised is equally acceptable to the Government of the Irish Free State, and I have the honor to inform you that they are prepared to sign it in conjunction with such other Governments as may be so disposed. As the effectiveness of the proposed treaty as an instrument for the suppression of war depends to a great extent upon its universal application, the Government of the Irish Free State hope that the treaty may meet with the approbation of the other Govern-

ments to whom it has been sent and that it may subsequently be accepted by all the other powers of the world.

Accept, Excellency, the renewed assurance of my highest consideration.

(Signed) P. McGilligan.

5. Reply of the Italian Government, July 15, 1928

[Translation]

Rome, *July 15, 1928.*

Excellency:

I have the honor to refer to the letter which, under instructions of your Government, Your Excellency addressed to me under date of the 23d of June last and to ask Your Excellency to inform your Government as follows:

The Royal Government, which has attentively examined the last draft of a treaty for the elimination of war proposed by the United States, takes note of and agrees with the interpretation of the said treaty which the Government of the United States sets forth in the above mentioned note of June 23 last and on this premise declares that it is disposed to proceed to the signature thereof.

I am happy to take this occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) Mussolini.

6. Reply of the Canadian Government, July 16, 1928 (handed to the American Minister at Ottawa by the Secretary of State for External Affairs, Mr. W. L. Mackenzie King)

Ottawa, *July 16, 1928.*

Sir:

I desire to acknowledge your note of June 23 and the revised draft which it contained of the treaty for the renunciation of war, and to state that His Majesty's Government in Canada cordially accepts the treaty as revised and is prepared to participate in its signature.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) W. L. Mackenzie King.

7. Reply of the Government of Belgium, July 17, 1928

[Translation]

Brussels, *July 17, 1928.*

Mr. Ambassador:

The Government of the King has examined with lively sympathy the letter of June 23 in which, acting on instructions from your Government, you have been good enough to invite Belgium to conclude a

multilateral treaty providing that the signatory states bind themselves to renounce war as an instrument of national policy.

Belgium is deeply attached to peace. She has always worked actively for the realization of movements tending to consolidate peace. She is therefore happy to pay her tribute to the idea inspiring the draft treaty.

The text prepared by the Government of Washington commands the full approbation of the Royal Government. This Government notes with satisfaction the explanations and interpretations contained in Your Excellency's letter. It is pleased to note that the proposed pact will maintain unimpaired the rights and obligations arising from the Covenant of the League of Nations and from the Locarno agreements which constitute for Belgium fundamental guaranties of security.

The Belgian Government highly appreciates the action of the American Government which permits it to join in the great work destined to develop the spirit of peace throughout the world and to diminish in future the risk of new catastrophes.

The Royal Government would be grateful if the Government of the United States would inform it as to the date and place which it may choose for the signature of the treaty.

I avail myself of this opportunity, etc.

(Signed) HYMANS.

8. Reply of the Government of Poland, July 8, 1928 [1]

WARSAW, *July 8, 1928.*

MR. MINISTER:

I have the honor to acknowledge the receipt of the note No. 1175 of June 23 last which you were good enough to send me, to which was attached the draft of a multilateral pact against war, as proposed by His Excellency, Mr. Kellogg.

The principles which Mr. Kellogg has emphasized in the draft above mentioned being entirely conformable with the objectives that Poland never ceases pursuing in its foreign policy, I have the honor to communicate to you the fact that the Polish Government accepts the text of the above stated pact and declares itself ready to affix its signature thereto.

As regards the interpretation of the pact in question which you have been good enough to give in your note of June 23 and which confirms the fact that the pact is destined to insure the consolidation of peaceful relations between states on the basis of the existing international obligations, the Polish Government takes note of the following statements:

(1) That the pact does not affect in any way the right of legitimate defense inherent in each state.

[1] Although dated July 8, 1928, the note was not presented to the American minister until July 17.

(2) That each state signatory to the pact who may endeavor to realize its national interests by means of war shall be deprived of the benefits of the said pact.

(3) That no incompatibility exists between the stipulations of the pact against war and the obligations deriving from the Covenant of the League of Nations for states which are Members of the latter. This statement results from the very fact that the pact proposed by Mr. Kellogg stipulates the renunciation of war as an instrument of national policy.

These precisions as well as the opportunity given to all states to adhere to the pact are of a nature to assure to Poland the possibility of satisfying her international obligations.

The Polish Government permits itself to express the hope of seeing the realization in the near future of this common work of peace and stabilization destined to assure its benefits to all mankind.

Please accept, Mr. Minister, the assurance of my high consideration.

(Signed) WYSOCKI.

9. Reply of the Government of Great Britain, July 18, 1928 (handed by Sir Austen Chamberlain to the American Chargé d'Affaires ad interim in London)

LONDON, *July 18, 1928.*

SIR:

I am happy to be able to inform you that after carefully studying the note which you left with me on the 23rd June, transmitting the revised text of the draft of the proposed treaty for the renunciation of war, His Majesty's Government in Great Britain accept the proposed treaty in the form transmitted by you and will be glad to sign it at such time and place as may be indicated for the purpose by the Government of the United States.

My Government have read with interest the explanations contained in your note as to the meaning of the draft treaty, and also the comments which it contains upon the considerations advanced by other powers in the previous diplomatic correspondence.

You will remember that in my previous communication of the 19th May I explained how important it was to my Government that the principle should be recognized that if one of the parties to this proposed treaty resorted to war in violation of its terms, the other parties should be released automatically from their obligations towards that party under the treaty. I also pointed out that respect for the obligations arising out of the Covenant of the League of Nations and of the Locarno treaties was the foundation of the policy of the Government of this country, and that they could not agree to any new treaty which would weaken or undermine these engagements.

The stipulation now inserted in the preamble under which any signatory power hereafter seeking to promote its national interests by resorting to war against another signatory is to be denied the benefits furnished by the treaty is satisfactory to my Government, and is sufficient to meet the first point mentioned in the preceding paragraph.

His Majesty's Government in Great Britain do not consider, after mature reflection, that the fulfilment of the obligations which they have undertaken in the Covenant of the League of Nations and in the treaty of Locarno is precluded by their acceptance of the proposed treaty. They concur in the view enunciated by the German Government in their note of the 27th April that those obligations do not contain anything which could conflict with the treaty proposed by the United States Government.

My Government have noted with peculiar satisfaction that all the parties to the Locarno treaty are now invited to become original signatories of the new treaty, and that it is clearly the wish of the United States Government that all Members of the League should become parties either by signature or accession. In order that as many states as possible may participate in the new movement, I trust that a general invitation will be extended to them to do so.

As regards the message in my note of the 19th May relating to certain regions of which the welfare and integrity constitute a special and vital interest for our peace and safety, I need only repeat that His Majesty's Government in Great Britain accept the new treaty upon the understanding that it does not prejudice their freedom of action in this respect.

I am entirely in accord with the views expressed by Mr. Kellogg in his speech of the 28th April that the proposed treaty does not restrict or impair in any way the right of self-defense, as also with his opinion that each state alone is competent to decide when circumstances necessitate recourse to war for that purpose.

In the light of the foregoing explanations, His Majesty's Government in Great Britain are glad to join with the United States and with all other Governments similarly disposed in signing a definitive treaty for the renunciation of war as transmitted in your note of the 23rd June. They rejoice to be associated with the Government of the United States of America and the other parties to the proposed treaty in a further and signal advance in the outlawry of war.

I have the honor to be, with high consideration, Sir, your obedient servant.

(Signed) AUSTEN CHAMBERLAIN.

10. The Reply of the Australian Government, July 18, 1928 (handed by Sir Austen Chamberlain to the American Chargé d'Affaires ad interim in London)

LONDON, *July 18, 1928.*

SIR:

In the note which you were so good as to address to me on June 23 last you stated that the Government of the United States would be glad to be informed whether His Majesty's Government in the Commonwealth of Australia were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note.

2. I now beg leave to inform you that His Majesty's Government in the Commonwealth of Australia have given the most careful consideration to your note above mentioned and to the revised draft treaty which accompanied it and that they accept the assurance given by the United States Secretary of State that the right of self-defense of a signatory state will not be impaired in any way by acceptance of the proposed treaty.

3. The Commonwealth Government have further observed that it is stated in your note of June 23 that the preamble to the revised treaty accords express recognition to the principle that if one signatory state resorts to war in violation of the treaty the other signatory states will be released from their obligations under the treaty to that state. They accept this declaration that the preamble in this respect is to be taken as a part of the substantive provisions of the treaty itself.

4. They have also particularly examined the draft treaty from the point of view of its relationship to the Covenant of the League of Nations and in this connection have come to the conclusion that it is not inconsistent with the latter instrument.

5. His Majesty's Government in the Commonwealth of Australia add that the foregoing are the only questions to which the proposed treaty gives rise in which they are especially interested. As the text of the treaty which has now been submitted is completely satisfactory to them so far as these specific points are concerned they will be quite agreeable to signing it in its present form.

I have [etc.]

(Signed) AUSTEN CHAMBERLAIN.

11. Reply of the Government of India, July 18, 1928 (handed by Sir Austen Chamberlain to the American Chargé d'Affaires ad Interim in London)

LONDON, *July 18, 1928.*

SIR:

In the note which you were so good as to address to me on June 23 last you stated that the Government of the United States would be

glad to be informed whether the Government of India were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note two.

2. I now beg leave to inform you that the Government of India associate themselves wholeheartedly and most gladly with the terms of the note which I have had the honor to transmit to you today notifying you of the willingness of His Majesty's Government in Great Britain to sign a multilateral treaty for the renunciation of war as proposed by the Government of the United States.

I have [etc.]

(Signed) AUSTEN CHAMBERLAIN.

12. Reply of the Government of New Zealand, July 18, 1928 (handed by Sir Austen Chamberlain to the American Chargé d'Affaires ad Interim in London)

LONDON, *July 18, 1928.*

SIR:

In the note which you were so good as to address to me on June 23 last you stated that the Government of the United States would be glad to be informed whether His Majesty's Government in New Zealand were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note two.

2. I now beg leave to inform you that His Majesty's Government in New Zealand desire to associate themselves with the terms of the note which I have had the honor to address to you today notifying you of the willingness of His Majesty's Government in Great Britain to sign a multilateral treaty for the renunciation of war as proposed by the Government of the United States. His Majesty's Government in New Zealand desire me to add that they will have the utmost satisfaction in cooperation with His Majesty's Governments in other parts of the British Empire in joining with the Government of the United States and with all other Governments similarly disposed in signing a treaty in the form proposed.

I have [etc.]

(Signed) AUSTEN CHAMBERLAIN.

13. Reply of the Government of the Union of South Africa, July 18, 1928 (handed by Sir Austen Chamberlain to the American Chargé d'Affaires ad Interim in London)

LONDON, *July 18, 1928.*

SIR:

In the note which you were so good as to address to me on June 23 last you stated that the Government of the United States would be

glad to be informed whether His Majesty's Government in the Union of South Africa were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty inclosed in your note two.

2. I now beg leave to inform you that the following message has been received by telegraph from General Hertzog, minister of external affairs of the Union of South Africa, for communication to you:

"On behalf of His Majesty's Government in the Union of South Africa I have the honor to inform you that my Government have given their most serious consideration to the new draft treaty for the renunciation of war submitted in your note of the 23rd June and to the observations accompanying it.

"My Government note with great satisfaction

"(*a*) That it is common cause that the right of legitimate self-defense is not affected by the terms of the new draft.

"(*b*) That according to the preamble any signatory who shall seek to promote its national interests by resorting to war shall forfeit the benefits of the treaty, and;

"(*c*) That the treaty is open to accession by all powers of the world.

"My Government have further examined the question whether the provisions of the present draft are inconsistent with the terms of the Covenant of the League of Nations by which they are bound and have come to the conclusion that this is not the case and that the objects which the League of Nations was constituted to serve can best be promoted by Members of the League of Nations participating in the proposed treaty.

"His Majesty's Government in the Union of South Africa have therefore very great pleasure in expressing their willingness to sign together with all other powers which might be similarly inclined the treaty in the form proposed in your note under reference."

I have [etc.]

(Signed) AUSTEN CHAMBERLAIN.

14. Reply of the Czechoslovak Government, July 20, 1928, Eduard Beneš, Minister for Foreign Affairs, to the American Minister at Prague

[Translation]

PRAGUE, *July 20, 1928.*

MR. MINISTER:

I have had the honor of receiving Your Excellency's letter of June 23 by which the Government of the United States invites the Government of the Czechoslovak Republic to sign the proposed treaty for the

renunciation of war. The same invitation was transmitted to our representative in Washington. The letter contains in addition to the integral text of the proposed treaty a commentary on the text which explains the remarks of the French Government and indicates in detail the meaning and the significance which the Government of the United States attaches to the multilateral treaty in the event of the treaty's signature, ratification and enactment.

I have the honor to transmit to Your Excellency by this note the reply of the Czechoslovak Government.

1. First I would very respectfully thank the Government of the United States for having addressed its invitation to us. From the beginning we have followed the negotiations between the French and American Governments on the subject of the pact for the renunciation of war with the greatest sympathy and attention, and were ready at any moment to associate ourselves with this noble undertaking, which marks a memorable date in the history of the world after the war. In our negotiations which I have had the honor, during the last few months, to carry on with the representatives of the United States, France and Great Britain, I have several times emphasized the importance of this act and the political necessity of associating thereto also the other powers and especially those who have assumed obligations by their negotiations at Locarno in 1925. The Government of the United States, agreeing fully in this with the other powers, has been good enough to recognize the justice of this point of view and addressed to us its invitation. The Czechoslovak Government attributes thereto a considerable political importance and warmly thanks the Washington Government.

2. In accordance with the negotiations prior to the signing of the treaty, as well as by the changes made in the preamble from the original text, and from the explanations contained in Your Excellency's letter of June 23, 1928, it is clear that there is nothing in this treaty in opposition either to the provisions of the Covenant of the League of Nations, nor with those of the Locarno treaties, or the neutrality treaties, nor in general with the obligations contained in existing treaties which the Czechoslovak Republic has hitherto made.

3. From the explanations given in Your Excellency's letter it is further brought out that any violation of the multilateral treaty by one of the contracting parties would free entirely the other signatory powers from their obligations towards the power which might have violated the stipulations of this treaty. It is furthermore apparent that the right of self-defense is in no way weakened nor restricted by the obligations of the new treaty and that each power is entirely free to defend itself according to its will and its necessities against attack and foreign invasion.

4. As thus defined both in the text of the preamble and in the statements of Your Excellency's letter, the goal of the new treaty, according

to the opinion of the Czechoslovak Republic, is to consolidate and maintain peaceful relations and peaceful and friendly collaboration under the contractual terms in which these have today been established between the interested nations. By their signature, the contracting parties will renounce war as an instrument of their national policy aimed to satisfy their selfish interests. This would be an immense benefit for humanity; and the Government of the Czechoslovak Republic rejoices to see that the American Government is ready to offer participation in this treaty, on the one hand to the powers who are parties to the neutrality treaties and on the other to all other powers in order to invest it with as universal a character as possible.

5. The Government of the Czechoslovak Republic having noted everything contained in Your Excellency's note expresses its point of view on this subject as shown in the foregoing, thus confirming the explanations of your note of June 23, 1928. It is very happy to be able to reply in the affirmative to the invitation of the Washington Government and thanking it again and most particularly for its generous efforts toward consolidating and maintaining world peace, declares that it is now ready to sign the text of the multilateral treaty in accordance with the proposition of His Excellency, Mr. Kellogg as set forth in Your Excellency's letter of June 23, 1928.

I venture to add that the Government of the Czechoslovak Republic gladly associates itself with all those who have rendered warm homage to the noble manifestation for world peace made by the Government of the United States and that the foreign policy of our country sees therein the realization of the ends which it has pursued for ten years.

Pray accept, Mr. Minister, the expressions of my highest consideration.

(Signed) EDUARD BENEŠ.

15. Reply of the Japanese Government, July 20, 1928, Baron Giichi Tanaka, Minister for Foreign Affairs, to the American Chargé d'Affaires in Tokyo

[Translation]

TOKYO, *July 20, 1928.*

SIR:

I have the honor to acknowledge the receipt of your note of the 23rd ultimo in which you recall to my attention your Government's identic note of the 13th of April of this year, inclosing, together with certain correspondence, the preliminary draft of a treaty, and inquiring whether this Government were in a position to give favorable consideration to the latter. Your note under reply further recalls that on the 20th of April the Government of the French Republic circulated among the interested Governments an alternative draft treaty, and that on the 28th of April the Secretary of State of the United States of America

explained fully the construction placed by that Government on their own draft, in view of the matter emphasized in the French alternative.

You now further inform me that the British, German and Italian Governments have replied to your Government's notes of the 13th April last, and that the Governments of the British self-governing Dominions and of India have likewise replied to invitations addressed to them on the suggestion of His Britannic Majesty's Government in Great Britain; and you observe that none of these Governments has expressed any dissent from the construction above referred to, or any disapproval of the principle underlying the proposals; nor have they suggested any specific modifications of the text of the draft; and you proceed to reenforce in detail the explanations made by the Secretary of State in his speech of the 28th April.

You then transmit for the consideration of this Government the revised draft of a multilateral treaty, which takes in the British self-governing Dominions, India and all parties to the Locarno treaty, as original parties, and in the preamble of which is included a statement which is directed to recognizing the principle that if a state goes to war in violation of the treaty, the other contracting powers are released from their obligations under the treaty to that state.

Such a multilateral treaty as so revised, you are instructed to state your Government are ready to sign at once, and you express the fervent hope that this Government will be able promptly to indicate greatest readiness to accept it in this form without qualification or reservation. You conclude by expressing the desire of the Government of the United States to know whether my Government are prepared to join with the United States and other similarly disposed Governments in signing a definitive treaty in the form so transmitted.

In reply I have the honor to inform you that the Japanese Government are happy to be able to give their full concurrence to the alterations now proposed, their understanding of the original draft submitted to them in April last being, as I intimated in my note to His Excellency, Mr. MacVeagh, dated the 26th of May, 1928, substantially the same as that entertained by the Government of the United States. They are therefore ready to have produced instructions for the signature, on that footing, of the treaty in the form in which it is now proposed.

I can not conclude without congratulating your Government most warmly upon the rapid and general acceptance which their proposals have met with. The Imperial Government are proud to be among the first to be associated with a movement so plainly in unison with the hopes everywhere entertained, and confidently concur with the high probability of the acceptance of this simple and magnanimous treaty by the whole civilized world.

I beg you, Monsieur le Chargé d'Affaires, to accept the renewed assurance of my high consideration.

(Signed) BARON GIICHI TANAKA.

APPENDIX II

I. THE TREATY FOR THE RENUNCIATION OF WAR

1. Text of the Treaty as signed at Paris, August 27, 1928

The President of the German Reich, the President of the United States of America, His Majesty the King of the Belgians, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland, the President of the Czechoslovak Republic,

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective plenipotentiaries:

The President of the German Reich: Dr. Gustav Stresemann, Minister for Foreign Affairs;

The President of the United States of America: The Honorable Frank B. Kellogg, Secretary of State;

His Majesty the King of the Belgians: Mr. Paul Hymans, Minister for Foreign Affairs, Minister of State;

The President of the French Republic: Mr. Aristide Briand, Minister for Foreign Affairs;

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations: the Right Honorable Lord Cushendun, Chancellor of the Duchy of Lancaster, Acting Secretary of State for Foreign Affairs;

For the Dominion of Canada: The Right Honorable William Lyon Mackenzie King, Prime Minister and Minister for External Affairs;

For the Commonwealth of Australia: the Honorable Alexander John McLachlan, Member of the Executive Federal Council;

For the Dominion of New Zealand: the Honorable Sir Christopher James Parr, High Commissioner for New Zealand in Great Britain;

For the Union of South Africa: the Honorable Jacobus Stephanus Smit, High Commissioner for the Union of South Africa in Great Britain;

For the Irish Free State: Mr. William Thomas Cosgrave, President of the Executive Council;

For India: the Right Honorable Lord Cushendun, Chancellor of the Duchy of Lancaster, Acting Secretary of State for Foreign Affairs;

His Majesty the King of Italy: Count Gaetano Manzoni, His Ambassador Extraordinary and Plenipotentiary at Paris;

His Majesty the Emperor of Japan: Count Uchida, Privy Councillor;

The President of the Republic of Poland: Mr. A. Zaleski, Minister for Foreign Affairs;

The President of the Czechoslovak Republic: Dr. Eduard Beneš, Minister for Foreign Affairs;

Who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

Art. 1. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

Art. 2. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

Art. 3. The present treaty shall be ratified by the high contracting parties named in the preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other powers of the world. Every instrument evidencing the adherence of a power shall be deposited at Washington and the treaty shall immediately upon such deposit become effective

as between the power thus adhering and the other powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective plenipotentiaries have signed this treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

Done at Paris the 27th day of August in the year one thousand nine hundred and twenty-eight.

(Seal) Gustav Stresemann
(Seal) Frank B. Kellogg
(Seal) Paul Hymans
(Seal) Ari Briand
(Seal) Cushendun
(Seal) W. L. Mackenzie King
(Seal) A. J. McLachlan
(Seal) C. J. Parr
(Seal) J. S. Smit
(Seal) Liam T. MacCosgair
(Seal) Cushendun
(Seal) G. Manzoni
(Seal) Uchida
(Seal) August Zaleski
(Seal) Dr. Eduard Beneš

II. INVITATION TO OTHER STATES TO ADHERE

1. The Note of Invitation

[The following note was addressed on August 27, 1928, through American missions abroad, to the Governments enumerated below:

Albania
Afghanistan
Argentina
Austria
Bolivia
Brazil
Bulgaria
Chile
China
Colombia
Costa Rica
Cuba
Denmark
Dominican Republic
Ecuador
Egypt
Estonia
Ethiopia
Finland
Greece
Guatemala
Haiti
Honduras
Hungary
Iceland
Latvia
Liberia
Lithuania
Luxemburg
Mexico
Netherlands
Nicaragua
Norway
Panama
Paraguay
Persia
Peru
Portugal
Rumania
Salvador
Serb-Croat-Slovene State
Siam
Spain
Sweden
Switzerland
Turkey
Uruguay
Venezuela

[Through the French Government to the Union of Socialist Soviet Republics.]

I have the honor to inform you that the Governments of Germany, the United States of America, Belgium, France, Great Britain, Canada, Australia, New Zealand, Union of South Africa, Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia have this day signed in Paris a treaty binding them to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which may arise among them.

This treaty, as Your Excellency is aware, is the outcome of negotiations which commenced on June 20, 1927, when M. Briand, Minister of Foreign Affairs of the French Republic submitted to my Government a draft of a pact of perpetual friendship between France and the United States. In the course of the subsequent negotiations this idea was extended so as to include as original signatories of the anti-war treaty not only France and the United States but also Japan, the British Empire and all the Governments which participated with France and Great Britain in the Locarno agreements, namely Belgium, Czechoslovakia, Germany, Italy and Poland. This procedure met the point raised by the British Government in its note of May 19, 1928, where it stated that the treaty from its very nature was not one which concerned that Government alone, but was one in which that Government could not undertake to participate otherwise than jointly and simultaneously with the Governments in the Dominions and the Government of India; it also settled satisfactorily the question whether there was any inconsistency between the new treaty and the treaty of Locarno, thus meeting the observations of the French Government as to the necessity of extending the number of original signatories.

The decision to limit the original signatories to the powers named above, that is, to the United States, Japan, the parties to the Locarno treaties, the British Dominions and India, was based entirely upon practical considerations. It was the desire of the United States that the negotiations be successfully concluded at the earliest possible moment and that the treaty become operative without the delay that would inevitably result were prior universal acceptance made a condition precedent to its coming into force. My Government felt, moreover, that if these powers could agree upon a simple renunciation of war as an instrument of national policy there could be no doubt that most, if not all, of the other powers of the world would find the formula equally acceptable and would hasten to lend their unqualified support to so impressive a movement for the perpetuation of peace. The United States has, however, been anxious from the beginning that no State should feel deprived of an opportunity to participate promptly in the new treaty and thus not only align itself formally and solemnly with this new manifestation of the popular demand for world peace but also avail itself of the identical benefits enjoyed by the original signatories. Accordingly in the draft treaty proposed by it the United States made specific provision for participation in the treaty by any and every power desiring to identify itself therewith, and this same provision is found in the definitive instrument signed to-day in Paris. It will also be observed that the powers signing the treaty have recorded in the preamble their hope that every nation of the world will participate in the treaty, and in that connection I am happy to be able to say that my Government has already received from several Governments informal indications that they are prepared to do so at the earliest possible

moment. This convincing evidence of the world-wide interest and sympathy which the new treaty has evoked is most gratifying to all the Governments concerned.

In these circumstances I have the honor formally to communicate to Your Excellency for your consideration and for the approval of your Government, if it concurs therein, the text of the above-mentioned treaty as signed to-day in Paris, omitting only that part of the preamble which names the several plenipotentiaries. The text is as follows:

[Here follows the text of the treaty.]

The provisions regarding ratification and adherence are, as Your Excellency will observe, found in the third and last article. That article provides that the treaty shall take effect as soon as the ratifications of all the powers named in the preamble shall have been deposited in Washington, and that it shall be open to adherence by all the other powers of the world, instruments evidencing such adherence to be deposited in Washington also. Any power desiring to participate in the treaty may thus exercise the right to adhere thereto and my Government will be happy to receive at any time appropriate notices of adherence from those Governments wishing to contribute to the success of this new movement for world peace by bringing their peoples within its beneficent scope. It will be noted in this connection that the treaty expressly provides that when it has once come into force it shall take effect immediately between an adhering power and the other parties thereto, and it is therefore clear that any Government adhering promptly will fully share in the benefits of the treaty at the very moment it comes into effect.

I shall shortly transmit for Your Excellency's convenient reference a printed pamphlet containing the text in translation of M. Briand's original proposal to my Government of June 20, 1927, and the complete record of the subsequent diplomatic correspondence on the subject of a multilateral treaty for the renunciation of war. I shall also transmit, as soon as received from my Government, a certified copy of the signed treaty.

2. Selected Replies to the Invitation

[Only those replies are given which include more than a formal intention to adhere or expressions of courtesy.]

a. Afghanistan (Adhesion)

[Excerpt]

It is understood that this complete adherence of the Afghan Government refers solely to the text of the treaty in the exact form in which Your Excellency kindly communicated it to me in your letter of August 27, 1928.

b. Brazil

The Minister for Foreign Affairs of Brazil to the American Ambassador at Rio de Janeiro, August 28, 1928

I have the honor to acknowledge the receipt of note No. 1382 of the 27th instant wherein Your Excellency informs me, in the name of your Government, of the text of the collective treaty to outlaw war which has just been signed at Paris.

Your Excellency states in the note to which I refer not only the origin of the said treaty but also the procedure adopted in its elaboration and the reasons why the negotiations on the subject were confined to certain nations. You add, however, that your Government, understanding that other states will desire to associate themselves in such a noble movement for peace, succeeded in having the necessary provision therefor adopted and that at any time the respective adhesions will be received with pleasure.

Believe, Mr. Ambassador, that the Brazilian Government at this happy moment rejoices with that of the United States of America and the other states and dominions, authors of the great pact. And its sincerity is so much the greater because in Brazil the principles on which the new treaty has conferred the most solemn of consecrations, before being engraved in the very text of the provisions of the federal constitution, have been in the conscience of the nation; to which principles it never expects to fail to give the fidelity which it owes them, whatever the emergency may be.

Taking note, Mr. Ambassador, of your important communication, for which I am cordially thankful,

I am, et cetera.

c. Cuba (Adhesion *ad referendum*)

The Chargé d'Affaires of the Cuban Embassy to the Secretary of State, August 31, 1928 [1]

Mr. Secretary:

I have the honor to inform Your Excellency that, on the proposition of the President of the Republic of Cuba, the Council of Secretaries approved that Cuba adhere to the covenant, commonly called Kellogg as a tribute to the illustrious statesman who conceived it, signed at Paris on the 27th of this month, and that at the said Council President Machado made the following declarations:

> "The Republic of Cuba will adhere to the multilateral Covenant signed in Paris on August 27, by which the nations condemn war as a system to settle international disputes, and obligate themselves to have recourse to peaceful means in the event of any misunderstanding.

[1] A preliminary note verbale was handed to the American ambassador at Habana on August 28, 1928.

"For more than three years, my Government has maintained a sincere cooperation in the efforts made by mankind to organize peace, and our active and consistent diplomatic action took shape in that sense at every international meeting, even though it be universal, such as the League of Nations, or regional, such as the Sixth International American Conference of Habana.

"I am convinced that this agreement which will bind the peoples by sacred promises, and must consolidate the interests of peace, will be effective, as also in other times there were treaties which created reasons for hatred and violence, and brought upon nations grief and ruin.

"Blessed be that America of ours whence came the admirable gesture of concord which will favor the pacific development of mankind and make it impossible that the work of the collective labor in which every people has its share and responsibility can be destroyed in one hour of insane avarice or wrath."

In having the honor to communicate the foregoing notice to Your Excellency, and the great satisfaction of my Government in joining in a Covenant which promotes the peace of the world, I venture to inform Your Excellency that at the proper time the Government of Cuba will, in the usual form, adhere to the Kellogg Covenant.

Accept, Excellency, etc.

(Signed) RAFAEL RODRIGUEZ ALTUNAGA,
Chargé d'Affaires ad interim.

The Chargé d'Affaires ad Interim of Cuba to the State Department, October 4, 1928

[Translation]

EXCELLENCY:

Pursuant to instructions from my Government, and referring to my note of August 31, 1928, I have the honor to present to Your Excellency the full powers by which the Honorable President of Cuba, General Gerardo Machado, accredits me near Your Excellency for the signature, in the name of the Republic of Cuba, of the multilateral pact signed at Paris on the 27th of August, ultimo, by virtue of which the nations subscribing it condemn war as a solution of international controversies and renounce it as an instrument of national policy in their mutual relations.

The information furnished to my Government by your Ambassador at Habana, in the sense that at any time after the signature of the pact referred to, the said pact was open to the adhesion of the nations invited to that effect, has moved my Government not to delay its adhesion to an instrument of such great significance for the peace of the

world; my Government has, therefore, authorized me to sign it in the name of the Republic of Cuba.

It is understood, nevertheless, that this pact will not be binding on the Republic of Cuba except after the Cuban Senate has ratified it.

Accordingly, I beg Your Excellency to be good enough to consider Cuba as having adhered to the multilateral Pact of Paris of August 27 of the current year, under the express condition of its ratification by the Senate of the Republic.

Accept, Mr. Secretary, the assurance of my highest and most distinguished consideration.

(Signed) RAFAEL RODRIGUEZ ALTUNAGA.

d. EGYPT (ADHESION *ad referendum*)

The Egyptian Minister of Foreign Affairs to the American Chargé d'Affaires, Bulkeley, September 3, 1928 [1]

MR. CHARGÉ D'AFFAIRES,

I have the honor to acknowledge the receipt of your note of the 27th of August by which you have been so kind as to inform me of the signature at Paris on the same day of the treaty solemnly proclaiming the proscription of war as an instrument of national policy and to transmit to me with the text of treaty the invitation of the Government of the United States to adhere to it.

Confident of being the faithful interpreter of the sentiments of the Egyptian people, the Royal Government takes pleasure to express to you its most hearty approval of the lofty purpose which led the Government of the United States to propose and to conclude, in the form of a multilateral pact, the treaty carrying the renunciation of war as an instrument of national policy. It renders homage to the untiring activity of the Government of the United States and to its high authority as well as to the invaluable cooperation of the other great powers which have succeeded in transforming the beneficent idea that war is beyond the law to an international obligation.

The Egyptian Government is pleased at the offer which has been so cordially extended to it to bring its own assistance to this great and generous enterprise and to assist in this way to assure the universality of the treaty.

It has in addition the sincere desire and the inflexible determination to do this, since peace is for Egypt not only a national temperament, but also a necessity for preservation. The renunciation, by her as well as by the other signing states or adherents to the pact of war as an instrument of national policy would be for Egypt the best guaranty of security and the beginning of development in order and progress.

[1] French text in *L'Europe nouvelle*, March 9, 1929, p. 318.

For the above reasons the Egyptian Government declares that it fully adheres to the pact in the form in which it was signed at Paris, it being understood, however, that this adhesion does not entail recognition of any reservation, whatever, made in connection with this pact.

The Egyptian Government is convinced that the new treaty will set solid foundations for peace and security of the world, that it will bring about a greater solidarity between the peoples and a cooperation fertile in consequences for the progress of humanity, and in short that it will influence international relations profoundly and favorably.

Accept, etc.

(Signed) HAFEZ AFIFI,
The Minister of Foreign Affairs.

e. HUNGARY (ADHESION *ad referendum*)

The Hungarian Minister for Foreign Affairs to the American Minister at Budapest, October 6, 1928

The Government of the United States is aware of the fact that after the world war Hungary was forced to sign a peace treaty which had not been preceded by the negotiations customary on such occasions and which, being the issue of erroneous presuppositions, created an unjust situation.

The situation arisen in consequence of this treaty of peace has not been able to assure the tranquility, and is impeding the development, of the different nations in this part of Europe. The events of the ten years which have elapsed since the end of the war furnish evident proof that this peace treaty can not be a suitable basis for natural and peaceful development.

It follows from the teaching of history that, wherever in the past the relations between nations were not determined by the exigencies of justice and reason, sooner or later forcible clashes occurred. The generous and humanitarian intentions of the policy of the United States which are evidenced by its proposal to renounce war elicit the highest appreciation of the Hungarian Government because that policy presupposes the elimination of such clashes and of the horrors of war from the lives of nations. However, it is natural that this endeavor can not lead to satisfactory results unless, war being eliminated, the nations could have at their disposition some different yet efficacious means for the solution of crises evolved from unjust and unnatural conditions.

The Hungarian Government adheres to the proposal of the Government of the United States under the supposition that the Government of the United States as well as the Governments of the other signatory powers will seek to find the means of rendering it possible that in the future injustices may be remedied by peaceful means.

The Hungarian Government will in due time take the necessary measures to assure that its adherence attain full legal validity in accordance with the rules of the Hungarian constitution.

f. Lithuania (Adhesion *ad referendum*) [1]

The Lithuanian Minister of Foreign Affairs to the American Minister at Bern, September 5, 1928

(Translation)

Mr. Secretary of State:

Your Excellency's proposal dated August 27 last to adhere to the pact for the renunciation of war as an instrument of national policy has been submitted to a thorough examination by the Lithuanian Government.

I am happy to be able to communicate to your excellency that on the 28th of August the Government of the Republic instructed me to notify the Government of the United States of its complete approval and adherence to the said pact. The Lithuanian Government does this with the more readiness in that Lithuania from the moment of the rebirth of its independent existence in 1918 instituted a policy of peace.

Thus the Lithuanian Government succeeded in inserting in the treaty of peace concluded with Russia at Moscow on July 12, 1920, a clause (Article 5) recognizing the permanent neutrality of Lithuania.[2] Russia declared itself ready to participate in international guarantees of this neutrality if the other great powers likewise recognized and guaranteed it.

The same policy of peace has been followed toward Poland in spite of the Polish efforts to prevent Lithuania from becoming an independent state. The treaty of Suvalki, October 7, 1920, contains a provision for the determination of the frontiers between the two states and for the solution exclusively by peaceful methods of all problems existing between Lithuania and Poland.[3]

Unfortunately on October 9, 1920, Poland violated this treaty by occupying the Lithuanian capital Vilna. In spite of repeated requests of the Lithuanian Government for the fulfilment of the convention, the Polish Government has refused to do so and has rejected the Lithuanian proposal to submit the matter to the Permanent Court of International Justice at The Hague.

At the present moment a third of the territory ceded by Russia to Lithuania by the treaty of peace is held by the Poles.

Nevertheless the Lithuanian Government has maintained its faith

[1] French text in *Journal de Genève*, September 9, 1928.

[2] *League of Nations Treaty Series*, III, p. 106 at p. 127.

[3] Compare Art. 2 (C) of the treaty in *League of Nations Treaty Series*, VIII, p. 174 at p. 183.

in a peaceful solution of the question of Vilna and in reparation for the damages caused Lithuania by Poland. Its faith is strengthened by the signature of the Kellogg pact between different states of the globe. There is ground for hope that shortly this pact will become the guiding principle of the entire world.

Finally the Lithuanian Government is profoundly convinced that the signature of the pact for the renunciation of war is only the first step toward the organization of world peace.

Accept [etc.]

(s) PROF. A. VOLDEMARAS.

g. PERSIA (ADHESION *ad referendum*)

The Persian Minister of Foreign Affairs to the American Chargé d'Affaires, Teheran, October 3, 1928 [1]

I have the honor to acknowledge receipt of the note which His Excellency Mr. Hoffman Phillip was good enough to forward to me on August 27, 1928, together with the text of the multilateral treaty against war proposed by His Excellency Mr. Kellogg.

My Government, considering that the multilateral treaty signed at Paris is in harmony with its consistently peaceful policy and with the obligations imposed by the Covenant of the League of Nations on its Members; being convinced, moreover, that the text of this treaty does not affect its right to legitimate self-defense; considering, further, that the reservations made by certain powers can in no case and at no time lay Persia under any obligation to recognize any possible claims of a nature to infringe her territorial or maritime rights and possessions, gives its cordial accession to the international pact for the outlawry of war.

(Signed) F. PAKREVAN,
Acting Minister for Foreign Affairs.

h. RUMANIA

The Chargé d'Affaires of the Rumanian Legation at Washington to the Acting Secretary of State, Washington, D. C., September 4, 1928

YOUR EXCELLENCY:

I am instructed by the Royal Rumanian Government to notify you of its adhesion to the following treaty:

The Pact to Outlaw War as an instrument of national policy, signed in Paris on August 27th by the representatives of Germany, Australia, Belgium, Canada, Czechoslovakia, France, Great Britain, India, Ire-

[1] League of Nations, *Official Journal*, IX, p. 1947.

land, Italy, Japan, New Zealand, Poland, South Africa and the United States of America.

I beg Your Excellency to receive the renewed assurance of my highest consideration.

(Signed) MICHEL R. STURDZA,
The Chargé d'Affaires of Rumania.

Excerpt from Subsequent Note [1]

It is shown with absolute clearness by the negotiations preliminary to the signature of the treaty as well as by the changes which have been made in the preamble with respect to its original text and the explanations contained in the note under date of June 23, 1928, of the Government of the United States addressed to the Governments invited to sign the treaty, that this treaty in no respect modifies the provisions of the Covenant of the League of Nations. Consequently, the rights and obligations derived from the new treaty constitute neither an extension nor a reduction of the rights and obligations derived from the Covenant of the League of Nations, which remain as they are. It also appears that the new treaty does not conflict with the neutrality treaties nor, in general, with the engagements contained in existing treaties which the Royal Government has contracted up to the present. It also follows from the note of the Government of the United States of June 23 and the above-mentioned acts and negotiations that any violation of the multilateral treaty by one of the contracting parties *ipso facto* releases the other powers signatory to the treaty from their obligations toward the power which has violated the engagements of the same treaty. It follows, moreover, that the right of defense is in no way affected or restricted by the engagements of the new treaty and that each power is entirely free to defend itself at will and according to its necessity against an attack or a foreign invasion.

i. THE SOVIET UNION (ADHESION *ad referendum*) [2]

MOSCOW, *August 31, 1928.*

His Excellency, The French Ambassador,
The French Embassy, Moscow.

YOUR EXCELLENCY,

You were kind enough to inform me on August 27, 1928, by order of your Government, that on that day the Governments of the German Republic, the United States, Belgium, France, Great Britain and its

[1] *Congressional Record*, Vol. 70, Daily Edition, p. 1144.

[2] The English translation here given has been independently made from the French text as officially presented to the Quai d'Orsay. This English version has been compared and homologated with a translation cabled by the Associated Press and translations published in London, and one in the *Soviet Union Review* (Vol. VI, p. 151), which was based upon the Russian text published in *Izvestia*.

Dominions, Italy, Japan, Poland and Czechoslovakia, had signed at Paris the multilateral pact, by which they bind themselves not to have recourse, in their mutual relations, to war as an instrument of national policy, but to settle the differences which may arise between them exclusively by pacific means.

Having handed me a copy of the pact, and having briefly related its history, you were also kind enough, Mr. Ambassador, to inform me:

(*a*) That the limitation of the number of the original signatories of the pact was solely prompted, according to the Government of the United States, by purely practical considerations and for the purpose of facilitating the effective application of the covenant in the shortest possible time, but it had always been the intention that in its final form it was to guarantee the immediate cooperation of all the nations of the world on the same conditions and with the same advantages as those accorded to the original signatories;

(*b*) That, in accordance with the above, the Government of the United States has been authorized to accept declarations from all countries desirous of joining in the covenant;

(*c*) That representatives of the Government of the United States in all foreign countries, with the exception of those countries whose representatives had already signed the covenant, had been instructed to communicate to the Governments to which they are accredited the text of the covenant signed in Paris;

(*d*) That the Government of the United States declared its readiness to receive even now the instruments of adhesion to the covenant of those Governments;

(*e*) That the Government of the French Republic accepted the duty through you, Mr. Ambassador, of bringing the text of the above-mentioned covenant to the attention of the Government of the Union of Socialist Soviet Republics and of inquiring of it whether it was disposed to accede thereto; and

(*f*) That, in case of an affirmative answer, you are authorized to receive the instrument of adhesion to the covenant for transmission to Washington.

In communicating to you, in the present note, the reply of the Government of the Soviet Union to your inquiry, I have the honor to ask you to communicate the following to your Government with the request that it will be good enough to transmit the same to the Government of the United States:

1. Having laid down from the very beginning of its existence as a basis of its foreign policy the preservation and safeguarding of the general peace, the Soviet Government has always and everywhere acted as a constant advocate of peace and has always met half way every step in this direction. The Soviet Government has considered, and still considers, that the carrying out of the program of general and complete disarmament is the only real means of preventing armed con-

flicts, because in the feverish atmosphere of general armament, every rivalry between states inevitably leads to war, which is the more destructive the more perfect the system of armament. A detailed project of complete disarmament was submitted by the delegation of the Soviet Union to the Preparatory Commission of the League of Nations,[1] but unfortunately it did not find support in the majority of that commission, including as it did representatives of those very powers which are the original signatories of the pact of Paris. The project was rejected, notwithstanding that its acceptance and realization would have meant a real guaranty of peace;

2. Not wishing to neglect any opportunity of contributing to the reduction of the burden of armament, weighing heavily upon the masses of the people, the Soviet Government, after the rejection of its proposals for complete disarmament, not only did not decline to discuss a partial reduction of armament but, through its delegation to the Preparatory Commission, itself came forward with a detailed project of partial but substantial disarmament.[2] However, the Soviet Government must regretfully state that this project likewise did not meet with the support of the Preparatory Commission, which demonstrated once more the complete powerlessness of the League of Nations in the matter of disarmament — the strongest guaranty of peace and the most powerful means of abolishing wars. This occurred as a result of the open opposition to the Soviet proposals of almost all the states which were the first to sign the pact for the prohibition of war;

3. Together with its systematic defense of the cause of disarmament and long before the idea of the newly signed Paris pact was thought of, the Soviet Government, in carrying out its peace policy, also addressed to the other Governments the proposition of renouncing through bilateral treaties not only the wars dealt with in the Paris pact, but of all mutual aggression and of all armed conflict whatsoever. Certain states, such as Germany, Turkey, Afghanistan, Persia and Lithuania, accepted this proposition and concluded corresponding pacts with the Soviet Government;[3] other Governments passed this proposal over in silence and avoided making a reply to it; still others declined it, making the strange explanation that unconditional renunciation of aggression would be incompatible with their obligations toward the League of Nations. This, however, did not prevent the same powers from signing the Paris pact, the text of which does not mention the inviolability of such obligations;

4. These facts irrefutably prove that the idea of the elimination of wars and armed conflicts in international relations is the basic and leading idea of Soviet foreign policy. Nevertheless, the initiators of the Paris pact did not deem it fitting to invite the Soviet Government

[1] League of Nations. *Preparatory Commission for the Disarmament Conference. Minutes of Fifth Session*, C. 165. M. 50. 1928. IX. 6, p. 324.

[2] *Ibid.*, p. 347.

[3] See p. 62 [282].

to participate in the negotiations leading up to the pact or in the drafting of its text. Similarly no invitation was extended to powers which are actually interested in the maintenance of peace either as having been the objects of past aggressions (such as Turkey and Afghanistan), or as being so at present (the republic of the great Chinese nation). Moreover, the invitation to adhere to the pact transmitted by the French Government does not contain the conditions which might enable the Soviet Government to exert any influence upon the text of the Paris document itself. However, the Soviet Government proceeds from the axiomatic premise that it can not, under all conditions, be deprived of the right from which other Governments have or could have benefited.

The Soviet Government considers itself bound first to make several remarks as to its attitude toward the pact;

5. First of all the Soviet Government can not refrain from expressing its deepest regret that the Paris pact contains no obligation whatsoever concerning disarmament. The Soviet delegation to the Preparatory Commission for the Disarmament Conference has already had the opportunity of declaring that only by combining a pact forbidding war with the carrying out of total and general disarmament can the maintenance of universal peace be effectively guaranteed, and that on the contrary, an international treaty forbidding war but unaccompanied even by such an elementary guaranty as the limitation of incessantly growing armament would remain a dead letter, without any real meaning. This is confirmed by the recent public statements of some of the signatories of the Paris pact concerning the inevitable continuance of arming, even after the conclusion of the pact. The new international political groups which have sprung up at the same time, especially in connection with the question of naval armament, still further confirm this view. The present situation now points more than ever to the necessity of taking decisive measures in the matter of disarmament;

6. With regard to the text of the pact, the Soviet Government deems it necessary to point out that there is a lack of precision and clarity in Art. 1 dealing with the formula prohibiting war; this formula allows various and arbitrary interpretations. For its part, the Soviet Government believes that every international war must be prohibited whether as an instrument of what is called "national policy," or as a method serving other purposes (for instance the suppression of national movements of liberation, etc.). In the opinion of the Soviet Government, there must be a ban on war, not only in the strict juridical meaning of the word (that is, presupposing a declaration of war, etc.), but also on such military actions as, for example, intervention, blockade, military occupation of foreign territories, of foreign ports, etc.

The history of recent years has provided instances of military activities which have inflicted terrible hardships on the peoples. The Soviet Republics were themselves the object of such attacks, and at the pres-

ent time the great Chinese people are the victims of similar aggressions. Further, such military actions often develop into big wars which it is then completely impossible to stop, and yet the pact does not say a word about these questions, which are most important from the point of view of peace. Again, the same first article of the pact mentions the necessity of settling all disputes and all international conflicts exclusively by peaceful means. In this connection, the Soviet Government considers that in the number of nonpacific means forbidden by the pact should also be included such means as the refusal to reestablish normal pacific relations between nations or the rupture of these relations, for such acts, by eliminating the pacific means which might settle differences, embitter relations and contribute to the creation of an atmosphere favorable to the outbreak of war;

7. Among the limitations made in writing in the diplomatic correspondence between the original signatories of the pact, the reservation of the British Government in par. 10 of its note of May 19[1] of this year attracts the special attention of the Soviet Government. In this the British Government reserves a complete freedom of action in regard to several regions which it does not specifically enumerate.

If regions forming part of the British Empire or its Dominions are referred to, they are included in the pact, and the case of aggression against them is foreseen by it, so that the reservation of the British Government with respect to them would seem, to say the least, superfluous. If other regions are meant, the signatories of the pact have the right to know exactly where the freedom of action of the British Government begins and ends. But the British Government reserves its freedom of action not only in the case of armed aggression on those regions, but also in the case of any unfriendly act or "interference" which would justify the opening of hostilities on the part of the British Government.

The recognition of such a right as is claimed by the British Government would mean the justification of war and might serve as a contagious example to the other signatories of the pact who, considering their equality in law, would regard themselves as having the same freedom with respect to other regions; and it would result that there would probably be no corner of the terrestrial globe where the pact could be applied. Indeed, the British limitation contains an invitation addressed to any other signatory of the pact to exempt other regions as well from its jurisdiction. The Soviet Government can not help considering this reservation as an attempt to use the pact itself as an instrument of imperialistic policy. However, the note of the British Government has not been communicated to the Soviet Government as a document forming an integral part of the pact or as an annex to it; and therefore it does not regard it as obligatory for the Soviet Government any more than are the other limitations concerning the pact

[1] See p. 126 [346].

mentioned in the diplomatic correspondence of the original signatories obligatory upon it.

The Soviet Government can not consent to any of the other limitations made in the correspondence designed to exempt from the application of the pact obligations ensuing from the Covenant of the League of Nations and the Locarno agreements;

8. In summarizing the above, it remains to point out the absence in the pact of obligations concerning disarmament which remains the only essential element safeguarding peace, the insufficiency and the vagueness of the very wording of the prohibition of war, and the existence of several limitations whose object is to eliminate in advance even any semblance of obligation with regard to the cause of peace. Nevertheless, inasmuch as the Paris pact imposes on the powers certain obligations before public opinion and gives the Soviet Government another opportunity to bring once again before all of those participating in the pact the most important question for the cause of peace, that of disarmament, the solution of which remains the only guaranty capable of eliminating war, the Soviet Government expresses its readiness to adhere to the Paris pact.

In pursuance of the foregoing, I shall have the honor, Mr. Ambassador, to transmit within a short time the instrument of adhesion [1] of my Government, as soon as the formalities in connection therewith are concluded.

Accept, etc.

(Signed) M. LITVINOV.

j. SWITZERLAND

The Political Department of Switzerland to the American Minister at Bern, August 30, 1928

MR. MINISTER:

We have had the honor to receive the note No. 87, dated August 27, by which Your Excellency kindly transmitted to us the text of the treaty condemning war as an instrument of national policy, signed the same day at Paris, and invited the Federal Council to examine the possibility for Switzerland to accede to this agreement.

We have likewise received a copy of the document published by the Government of the United States containing the text of the notes exchanged in the negotiations.

In expressing our thanks for these important communications we hasten to inform you that the Federal Council took note of them with the greatest interest and that it rejoices at the fortunate conclusion of an agreement which constitutes so eloquent a manifestation in favor of the maintenance of peace in the world.

[1] For text, *infra*, p. 174 [394].

A collective treaty such as the Kellogg pact, which condemns recourse to war for the settlement of international disputes and proscribes it as an instrument of national policy, a treaty which, moreover, imposes it as a duty upon the contracting states to search by pacific means the solution of all differences of whatsoever nature, was certain to receive the most favorable welcome from the Government and people of Switzerland.

The renunciation of war as an instrument of national policy is in full harmony with the traditional policy of Switzerland and is effectively consecrated by her permanent neutrality which is indeed for Switzerland axiomatic. The idea that all disputes must be regulated by pacific means likewise fully accords with the conception which Switzerland seeks to realize by her policy in the world of international arbitration.

The Federal Council is accordingly convinced that the careful study to which it is submitting the question will undoubtedly lead it to recommend to the Federal Chambers that it be authorized to accede to the new treaty.

In requesting you to bring the foregoing to the attention of your Government we avail ourselves, et cetera.

(Signed) MOTTA.

III. RATIFICATIONS AND ADHESIONS

1. Declaration of Adhesion of the Union of Socialist Soviet Republics,[1] September 6, 1928

The undersigned, Commissary of the People for Foreign Affairs of the Union of the Socialist Soviet Republics, declares that the Union of the Socialist Soviet Republics adheres to the treaty condemning recourse to war that was signed in Paris on August 27, 1928, and is worded as follows:

[Here follows the French text of the Paris treaty, leaving out the names of the Plenipotentiaries appointed by the powers that are signatory to the treaty.]

In faith whereof, the Acting Commissar of the People for Foreign Affairs of the Union of the Socialist Soviet Republics, duly authorized to that effect, signed this declaration of adhesion.

Done at Moscow, September 6, 1928.

(Signed) MAXIME LITVINOFF.

2. Ratification of the United States, January 17, 1929

CALVIN COOLIDGE, *President of the United States.*

To all to whom these presents shall come, greetings:

Know ye, that whereas a treaty between the President of the German Reich, the President of the United States of America, His Majesty the King of the Belgians, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland, and the President of the Czechoslovak Republic, declaring in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another, was signed by their respective plenipotentiaries at Paris on the twenty-seventh day of August, one thousand, nine hundred and twenty-eight, the original of which treaty, in the French and English languages, is hereto annexed:[2]

[1] Sent by the French Ambassador at Moscow to the French Foreign Office, and by it transmitted to the Department of State through the French Embassy at Washington.

[2] Not printed herewith; see p. 155 [375].

And whereas the Senate of the United States, by their resolution of January 15, 1929 (two-thirds of the Senators present concurring therein), did advise and consent to the ratification of the said treaty;

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, having seen and considered the said treaty, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof.

In testimony whereof I have caused the seal of the United States to be hereunto affixed.

Done at the city of Washington, this seventeenth day of January, in the year of our Lord one thousand, nine hundred and twenty-nine, and of the independence of the United States of America the one hundred and fifty-third.

CALVIN COOLIDGE.

[Seal]

By the President:

FRANK B. KELLOGG,
Secretary of State.

3. Procès Verbal of the Deposit of Ratifications of the Treaty for the Renunciation of War signed at Paris on August 27, 1928

In conformity with Art. III of the Treaty for the Renunciation of War, concluded at Paris on August 27, 1928, the undersigned this day met at the Department of State at Washington to proceed with the deposit with the Government of the United States of America of the instruments of ratification of the said treaty by the Governments they represent.

The instruments of ratification produced, having been found upon examination to be in due form, are intrusted to the Government of the United States of America to be deposited in the archives of the Department of State of that Government.

In witness whereof, the present procès verbal, of which a certified copy will be furnished by the Government of the United States of America to each of the signatory parties to the treaty, is signed.

Done at Washington, March 2, 1929.

For Germany:

FRIEDRICH W. VON PRITTWITZ UND GAFFRON.

For the United States of America:

FRANK B. KELLOGG.

For Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations:

ESME HOWARD.

For the Dominion of Canada:

VINCENT MASSEY.

For the Commonwealth of Australia:

ESME HOWARD.

For the Dominion of New Zealand:

ESME HOWARD.

For the Union of South Africa:

ESME HOWARD.

For the Irish Free State:

WM. J. B. MACAULAY.

For India:

ESME HOWARD.

For Italy:

G. DE MARTINO.

For Czechoslovakia:

VEVERKA.

IV. PROTOCOL SIGNED AT MOSCOW FEBRUARY 9, 1929, ON BEHALF OF THE GOVERNMENTS OF ESTONIA, LATVIA, POLAND, RUMANIA AND THE UNION OF SOCIALIST SOVIET REPUBLICS[1]

In force March 30, 1929; adhesion of Persia, April 3; of Lithuania, April 5; of Turkey, July 3; registered by Poland at Geneva, May 14, 1929.

The Government of the Estonian Republic, the President of the Republic of Latvia, the President of the Republic of Poland, His Majesty, the King of Rumania, and the Central Executive Committee of the Union of Socialist Soviet Republics,

Animated by the desire of contributing to the maintenance of the peace existing between their countries[2] and with this object of bringing into force without delay between the peoples of these countries the treaty for the renunciation of war as an instrument of national policy signed at Paris August 27, 1928, have decided to realize these intentions by means of the present protocol, and name as their plenipotentiaries the following:

[Here follows list of plenipotentiaries.]

Who, after having communicated their full powers, found in good and due form, have agreed upon the following:

ART. 1. The treaty for the renunciation of war as an instrument of national policy signed at Paris August 27, 1928, a copy of which is attached to the present protocol as an integral part thereof, enters into force between the contracting parties after the ratification of the said treaty of Paris of 1928 by the competent legislative organs of the respective contracting states.

ART. 2. The putting into force by the present protocol of the treaty of Paris of 1928 in the mutual relations of the parties to the present protocol shall be valid independently of the entrance into force of the treaty of Paris of 1928, as provided for in Art. 3 of the latter.

ART. 3. 1. The present protocol shall be ratified by the competent legislative organs of the contracting parties in conformity with the requirements of their respective constitutions.

[1] Translation based on the French text printed in *L'Europe Nouvelle*, March 9, 1929, p. 325.

[2] This phrase was added at the request of Rumania in order to define the attitude of the signatory powers on the question of Bessarabia.

2. The instruments of ratification shall be deposited by each of the contracting parties with the Government of the Union of Socialist Soviet Republics within a period of one week from the date of the ratification of the present protocol by the respective party.

3. From the day when two of the contracting parties shall have deposited their instruments of ratification, the present protocol shall enter into force between those two parties. In the mutual relations of the other contracting parties and of the states for which the protocol has already entered into force, it shall enter into force when their instruments of ratification are deposited.

4. The Government of the Union of Socialist Soviet Republics will immediately notify each deposit to all the signatories of the present protocol.

Art. 4. In order to give effect to the first article of the present protocol, each contracting party, after ratification by its legislative organs of the treaty of Paris of 1928, shall immediately notify through diplomatic channels the Government of the Union of Socialist Soviet Republics and all other parties to the present protocol.

Art. 5. The present protocol is open to adhesion by the Governments of all countries. Notification of definitive adhesion shall be made in the name of the Government of the Union of Socialist Soviet Republics, which shall notify all other parties to the present protocol thereof. On receipt of the said notification of adhesion, the present protocol shall enter into force in the mutual relations of the adherent state and of all other parties to the present protocol.

Art. 6. The entrance into force by means of the present protocol of the treaty of Paris of 1928 in the mutual relations of the adherent state and of all other parties to the present protocol shall be effected in the manner provided in Art. 4 of the present protocol.

Art. 7. The present protocol is drawn up in a single copy, of which an authentic transcript shall be communicated by the Government of the Union of Socialist Soviet Republics to each of the signatory or adhering states.

In faith whereof the above-named plenipotentiaries have signed the present protocol and have affixed their seals hereto.

Done at Moscow February 9, 1929.

(Signed) Jul. Seljamaa.
K. Ozols.
St. Patek.
Davila.
Maxim Litvinov.

Annex I

[The Treaty for Renunciation of War, see text at p. 155 [375].

APPENDIX III

I. THE PACIFIC SETTLEMENT SYSTEM

1. The United States

[The negotiators for the renunciation of war from the outset have agreed in condemning recourse to war and providing that the solution of all disputes or conflicts "shall never be sought except by pacific means." Establishment of a system of pacific settlement is left to the parties to perfect. The United States Government is depending upon bilateral treaties to attain this end. These consist of (1) an arbitration treaty covering differences involving "a claim of right" with specified exceptions, and (2) a conciliation treaty referring all disputes not adjudicated "by a competent tribunal" to a commission for investigation and report. The following texts are the forms which the United States has adopted:]

a. Treaty of Arbitration [1]

The President of the United States of America and the President of the German Reich

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective plenipotentiaries

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States, and

The President of the German Reich, Herr Friedrich von Prittwitz und Gaffron, German Ambassador to the United States of America:

[1] Reprinted from United States *Treaty Series*, No. 774.

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ART. I. All differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Germany in accordance with its constitutional laws.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the high contracting parties,

(*b*) involves the interests of third parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine,

(*d*) depends upon or involves the observance of the obligations of Germany in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the President of the German Reich in accordance with German constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either high contracting party to the other.

In faith whereof the respective plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the fifth day of May in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG. (Seal.)
F. VON PRITTWITZ. (Seal.)

b. Treaty of Conciliation [1]

The President of the United States of America and the President of the German Reich, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States of America; and

The President of the German Reich, Herr Friedrich von Prittwitz und Gaffron, German Ambassador to the United States of America:

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

Art. I. Any disputes arising between the Government of the United States of America and the Government of Germany, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding article; the high contracting parties agree not to declare war or begin hostilities during such investigation and before the report is submitted.

Art. II. The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

Art. III. In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The high contracting parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

[1] Reprinted from United States *Treaty Series*, No. 775.

The report of the commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall shorten or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject matter of the dispute after the report of the commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by the President of the German Reich in accordance with German constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either high contracting party to the other.

In faith whereof the respective plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the fifth day of May in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG. [Seal.]
F. VON PRITTWITZ. [Seal.]

2. The General Act adopted by the League of Nations Assembly, September 26, 1928[1]

CHAPTER I. — CONCILIATION

ART. 1. Disputes of every kind between two or more parties to the present General Act which it has not been possible to settle by diplomacy shall, subject to such reservations as may be made under Art. 39, be submitted, under the conditions laid down in the present chapter, to the procedure of conciliation.

ART. 2. The disputes referred to in the preceding article shall be submitted to a permanent or special Conciliation Commission constituted by the parties to the dispute.

ART. 3. On a request to that effect being made by one of the contracting parties to another party, a permanent Conciliation Commission shall be constituted within a period of six months.

ART. 4. Unless the parties concerned agree otherwise, the Conciliation Commission shall be constituted as follows:

[1] League of Nations, *Resolutions and Recommendations adopted by the Assembly . . . 1928*, p. 20 (*Official Journal*, Spec. Sup. No. 63).

1. The commission shall be composed of five members. The parties shall each nominate one commissioner, who may be chosen from among their respective nationals. The three other commissioners shall be appointed by agreement from among the nationals of third powers. These three commissioners must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties. The parties shall appoint the president of the commission from among them.

2. The commissioners shall be appointed for three years. They shall be reeligible. The commissioners appointed jointly may be replaced during the course of their mandate by agreement between the parties. Either party may, however, at any time replace a commissioner whom it has appointed. Even if replaced, the commissioners shall continue to exercise their functions until the termination of the work in hand.

3. Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

Art. 5. If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

Art. 6. 1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Arts. 3 and 5, the making of the necessary appointments shall be intrusted to a third power, chosen by agreement between the parties, or on request of the parties, to the acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, each party shall designate a different power, and the appointment shall be made in concert by the powers thus chosen.

3. If, within a period of three months, the two powers have been unable to reach an agreement, each of them shall submit a number of candidates equal to the number of members to be appointed. It shall then be decided by lot which of the candidates thus designated shall be appointed.

Art. 7. 1. Disputes shall be brought before the Conciliation Commission by means of an application addressed to the president by the two parties acting in agreement, or in default thereof by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall, without delay, be notified by it.

ART. 8. 1. Within 15 days from the date on which a dispute has been brought by one of the parties before a permanent Conciliation Commission, either party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter.

2. The party making use of this right shall immediately notify the other party; the latter shall, in such case, be entitled to take similar action within 15 days from the date on which it received the notification.

ART. 9. 1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall meet at the seat of the League of Nations, or at some other place selected by its president.

2. The commission may in all circumstances request the Secretary-General of the League of Nations to afford it his assistance.

ART. 10. The work of the Conciliation Commission shall not be conducted in public unless a decision to that effect is taken by the commission with the consent of the parties.

ART. 11. 1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to inquiries, the commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Part III of the Hague convention of October 18, 1907, for the Pacific Settlement of International Disputes.

2. The parties shall be represented before the Conciliation Commission by agents, whose duty shall be to act as intermediaries between them and the commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable shall be heard.

3. The commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

ART. 12. In the absence of agreement to the contrary between the parties, the decisions of the Conciliation Commission shall be taken by a majority vote, and the commission may only take decisions on the substance of the dispute if all its members are present.

ART. 13. The parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

ART. 14. 1. During the proceedings of the commission, each of the commissioners shall receive emoluments the amount of which shall be

fixed by agreement between the parties, each of which shall contribute an equal share.

2. The general expenses arising out of the working of the commission shall be divided in the same manner.

Art. 15. 1. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of inquiry or otherwise, and to endeavor to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it, and lay down the period within which they are to make their decision.

2. At the close of its proceedings, the commission shall draw up a procès-verbal stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the procès-verbal of whether the commission's decisions were taken unanimously or by a majority vote.

3. The proceedings of the commission must, unless the parties otherwise agree, be terminated within six months from the date on which the commission shall have been given cognizance of the dispute.

Art. 16. The commission's procès-verbal shall be communicated without delay to the parties. The parties shall decide whether it shall be published.

Chapter II. — Judicial Settlement

Art. 17. All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under Art. 39, be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.

It is understood that the disputes referred to above include in particular those mentioned in Art. 36 of the Statute of the Permanent Court of International Justice.

Art. 18. If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected, and the procedure to be followed. In the absence of sufficient particulars in the special agreement, the provisions of the Hague convention of October 18, 1907, for the Pacific Settlement of International Disputes, shall apply so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the tribunal shall apply the substantive rules enumerated in Art. 38 of the Statute of the Permanent Court of International Justice.

Art. 19. If the parties fail to agree concerning the special agreement referred to in the preceding article, or fail to appoint arbitrators,

either party shall be at liberty, after giving three months' notice, to bring the dispute by an application direct before the Permanent Court of International Justice.

Art. 20. 1. Notwithstanding the provisions of Art. 1, disputes of the kind referred to in Art. 17 arising between parties who have acceded to the obligations contained in the present chapter shall only be subject to the procedure of conciliation if the parties so agree.

2. The obligation to resort to the procedure of conciliation remains applicable to disputes which are excluded from judicial settlement only by the operation of reservations under the provisions of Art. 39.

3. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral tribunal referred to in Art. 18 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

Chapter III. — Arbitration

Art. 21. Any dispute not of the kind referred to in Art. 17 which does not, within the month following the termination of the work of the Conciliation Commission provided for in Chap. I, form the object of an agreement between the parties, shall, subject to such reservations as may be made under Art. 39, be brought before an arbitral tribunal which, unless the parties otherwise agree, shall be constituted in the manner set out below.

Art. 22. The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The two other arbitrators and the chairman shall be chosen by common agreement from among the nationals of third powers. They must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties.

Art. 23. 1. If the appointment of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an arbitral tribunal, a third power, chosen by agreement between the parties, shall be requested to make the necessary appointments.

2. If no agreement is reached on this point, each party shall designate a different power, and the appointments shall be made in concert by the powers thus chosen.

3. If, within a period of three months, the two powers so chosen have been unable to reach an agreement, the necessary appointments shall be made by the president of the Permanent Court of International Justice. If the latter is prevented from acting or is a subject of one of the parties, the nomination shall be made by the vice-president. If the latter is prevented from acting or is a subject of one of the parties, the

appointments shall be made by the oldest member of the Court who is not a subject of either party.

ART. 24. Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 25. The parties shall draw up a special agreement determining the subject of the disputes and the details of procedure.

ART. 26. In the absence of sufficient particulars in the special agreement regarding the matters referred to in the preceding article, the provisions of the Hague convention of October 18, 1907, for the pacific settlement of international disputes shall apply so far as is necessary.

ART. 27. Failing the conclusion of a special agreement within a period of three months from the date on which the tribunal was constituted, the dispute may be brought before the tribunal by an application by one or other party.

ART. 28. If nothing is laid down in the special agreement or no special agreement has been made, the tribunal shall apply the rules in regard to the substance of the dispute enumerated in Art. 38 of the Statute of the Permanent Court of International Justice. In so far as there exists no such rule applicable to the dispute, the tribunal shall decide *ex æquo et bono.*

CHAPTER IV. — GENERAL PROVISIONS

ART. 29. 1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.

2. The present General Act shall not affect any agreements in force by which conciliation procedure is established between the parties or they are bound by obligations to resort to arbitration or judicial settlement which insure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present General Act concerning judicial settlement or arbitration shall be applied in so far as the parties have acceded thereto.

ART. 30. If a party brings before a Conciliation Commission a dispute which the other party, relying on conventions in force between the parties, has submitted to the Permanent Court of International Justice or an arbitral tribunal, the commission shall defer consideration of the dispute until the Court or the arbitral tribunal has pronounced upon the conflict of competence. The same rule shall apply if the Court or the tribunal is seized of the case by one of the parties during the conciliation proceedings.

ART. 31. 1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may

object to the matter in dispute being submitted for settlement by the different methods laid down in the present General Act until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

2. In such a case, the party which desires to resort to the procedures laid down in the present General Act must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

Art. 32. If, in a judicial sentence or arbitral award, it is declared that a judgment, or a measure enjoined by a court of law or other authority of one of the parties to the dispute, is wholly or in part contrary to international law, and if the constitutional law of that party does not permit or only partially permits the consequences of the judgment or measure in question to be annulled, the parties agree that the judicial sentence or arbitral award shall grant the injured party equitable satisfaction.

Art. 33. 1. In all cases where a dispute forms the object of arbitration or judicial proceedings, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the Permanent Court of International Justice, acting in accordance with Art. 41 of its Statute, or the arbitral tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The parties to the dispute shall be bound to accept such measures.

2. If the dispute is brought before a Conciliation Commission, the latter may recommend to the parties the adoption of such provisional measures as it considers suitable.

3. The parties undertake to abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral decision or upon the arrangements proposed by the Conciliation Commission and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Art. 34. Should a dispute arise between more than two parties to the present General Act, the following rules shall be observed for the application of the forms of procedure described in the foregoing provisions:

(*a*) In the case of conciliation procedure, a special commission shall invariably be constituted. The composition of such commission shall differ according as the parties all have separate interests or as two or more of their number act together.

In the former case, the parties shall each appoint one commissioner and shall jointly appoint commissioners nationals of third powers not parties to the dispute, whose number shall always exceed by one the number of commissioners appointed separately by the parties.

In the second case, the parties who act together shall appoint their commissioner jointly by agreement between themselves and shall combine with the other party or parties in appointing third commissioners.

In either event, the parties, unless they agree otherwise, shall apply Art. 5 and the following articles of the present Act, so far as they are compatible with the provisions of the present article.

(*b*) In the case of judicial procedure, the Statute of the Permanent Court of International Justice shall apply.

(*c*) In the case of arbitral procedure, if agreement is not secured as to the composition of the tribunal, in the case of the disputes mentioned in Art. 17 each party shall have the right, by means of an application, to submit the dispute to the Permanent Court of International Justice; in the case of the disputes mentioned in Art. 21, the above Art. 22 and following articles shall apply, but each party having separate interests shall appoint one arbitrator and the number of arbitrators separately appointed by the parties to the dispute shall always be one less than that of the other arbitrators.

ART. 35. 1. The present General Act shall be applicable as between the parties thereto, even though a third power, whether a party to the Act or not, has an interest in the dispute.

2. In conciliation procedure, the parties may agree to invite such third power to intervene.

ART. 36. 1. In judicial or arbitral procedure, if a third power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the arbitral tribunal a request to intervene as a third party.

2. It will be for the Court or the tribunal to decide upon this request.

ART. 37. 1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the arbitral tribunal shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but, if it uses this right, the construction given by the decision will be binding upon it.

ART. 38. Accessions to the present General Act may extend:

A. Either to all the provisions of the Act (Chaps. I, II, III and IV);

B. Or to those provisions only which relate to conciliation and judicial settlement (Chaps. I and II), together with the general provisions dealing with these procedures (Chap. IV);

C. Or to those provisions only which relate to conciliation (Chap. I), together with the general provisions concerning that procedure (Chap. IV).

The contracting parties may benefit by the accessions of other parties only in so far as they have themselves assumed the same obligations.

ART. 39. 1. In addition to the power given in the preceding article, a party, in acceding to the present General Act, may make his accept-

ance conditional upon the reservations exhaustively enumerated in the following paragraph. These reservations must be indicated at the time of accession.

2. These reservations may be such as to exclude from the procedure described in the present Act:

(*a*) Disputes arising out of facts prior to the accession either of the party making the reservation or of any other party with whom the said party may have a dispute;

(*b*) Disputes concerning questions which by international law are solely within the domestic jurisdiction of states;

(*c*) Disputes concerning particular cases or clearly specified subject-matters, such as territorial status, or disputes falling within clearly defined categories.

3. If one of the parties to a dispute has made a reservation, the other parties may enforce the same reservation in regard to that party.

4. In the case of parties who have acceded to the provisions of the present General Act relating to judicial settlement or to arbitration, such reservations as they may have made shall, unless otherwise expressly stated, be deemed not to apply to the procedure of conciliation.

Art. 40. A party whose accession has been only partial, or was made subject to reservations, may at any moment, by means of a simple declaration, either extend the scope of his accession or abandon all or part of his reservations.

Art. 41. Disputes relating to the interpretation or application of the present General Act, including those concerning the classification of disputes and the scope of reservations, shall be submitted to the Permanent Court of International Justice.

Art. 42. The present General Act, of which the French and English texts shall both be authentic, shall bear the date of the 26th of September 1928.

Art. 43. 1. The present General Act shall be open to accession by all the heads of states or other competent authorities of the Members of the League of Nations and the non-Member states to which the Council of the League of Nations has communicated a copy for this purpose.

2. The instruments of accession and the additional declarations provided for by Art. 40 shall be transmitted to the Secretary-General of the League of Nations, who shall notify their receipt to all the Members of the League and to the non-Member states referred to in the preceding paragraph.

3. The Secretary-General of the League of Nations shall draw up three lists, denominated respectively by the letters A, B and C, corresponding to the three forms of accession to the present Act provided for in Art. 38, in which shall be shown the accessions and additional declarations of the contracting parties. These lists, which shall be

continually kept up to date, shall be published in the annual report presented to the Assembly of the League of Nations by the Secretary-General.

ART. 44. 1. The present General Act shall come into force on the 90th day following the receipt by the Secretary-General of the League of Nations of the accession of not less than two contracting parties.

2. Accessions received after the entry into force of the Act, in accordance with the previous paragraph, shall become effective as from the 90th day following the date of receipt by the Secretary-General of the League of Nations. The same rule shall apply to the additional declarations provided for by Art. 40.

ART. 45. 1. The present General Act shall be concluded for a period of five years, dating from its entry into force.

2. It shall remain in force for further successive periods of five years in the case of contracting parties which do not denounce it at least six months before the expiration of the current period.

3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the League of Nations, who shall inform all the Members of the League and the non-Member states referred to in Art. 43.

4. A denunciation may be partial only, or may consist in notification of reservations not previously made.

5. Notwithstanding denunciation by one of the contracting parties concerned in a dispute, all proceedings pending at the expiration of the current period of the General Act shall be duly completed.

ART. 46. A copy of the present General Act, signed by the President of the Assembly and by the Secretary-General of the League of Nations, shall be deposited in the archives of the Secretariat; a certified true copy shall be delivered by the Secretary-General to all the Members of the League of Nations and to the non-Member states indicated by the Council of the League of Nations.

ART. 47. The present General Act shall be registered by the Secretary-General of the League of Nations on the date of its entry into force.

Convention A. Bilateral Convention for the Pacific Settlement of All International Disputes

CHAPTER I. — PACIFIC SETTLEMENT IN GENERAL

ART. 1. Disputes of every kind which may arise between the high contracting parties and which it has not been possible to settle by diplomacy shall be submitted, under the conditions laid down in the present convention, to settlement by judicial means or arbitration, preceded, according to circumstances, as a compulsory or optional measure, by recourse to the procedure of conciliation.

Arts. 2–3 are Arts. 29 and 31 of the General Act.

Chapter II. — Judicial Settlement

Art. 4. All disputes with regard to which the parties are in conflict as to their respective rights shall be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.

It is understood that the disputes referred to above include in particular those mentioned in Art. 36 of the Permanent Court of International Justice.

Arts. 5–6 are Arts. 18–19 of the General Act.

Art. 7. 1. In the case of the disputes mentioned in Art. 4, before any procedure before the Permanent Court of International Justice or any arbitral procedure, the parties may agree to have recourse to the conciliation procedure provided for in the present Convention.

2. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral tribunal referred to in Art. 5 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

Chapter III. — Conciliation

Art. 8. All disputes between the parties other than the disputes mentioned in Art. 4 shall be submitted obligatorily to a procedure of conciliation before they can form the subject of a settlement by arbitration.

Arts. 9–23 are Arts. 2–16 of the General Act.

Chapter IV. — Settlement by Arbitration

Art. 24. If the parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission mentioned in the previous articles, the question shall be brought before an Arbitral Tribunal which, unless the parties agree otherwise, shall be constituted in the manner indicated below.

Arts. 25–31 are Arts. 22–28 of the General Act, except Art. 29, which is not quite identical with Art. 26 of the latter.

Chapter V. — General Provisions

Arts. 32–35 correspond with Arts. 33, 32, 35–37 and 41 of the General Act.

Arts. 36–37 relate to formalities.

Convention B — Bilateral Convention for Judicial Settlement, Arbitration and Conciliation

Chapter I. — Pacific Settlement in General

Art. 1. Disputes of every kind which may arise between the high contracting parties and which it has not been possible to settle by diplomacy shall be submitted to a procedure of judicial settlement, arbitration or conciliation under the conditions laid down in the present Convention.

Arts. 2–3 are Arts. 29 and 31 of the General Act.

Chapter II. — Judicial Settlement

Arts. 4–7 are identic with the same articles of Convention A.

Chapter III. — Conciliation

Art. 8. All disputes between the parties other than the disputes mentioned in Art. 4 shall be submitted obligatorily to a procedure of conciliation.

Arts. 9–23 are Arts. 2–16 of the General Act.

Art. 24. If the parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission, the dispute remains subject to be dealt with in accordance with Art. 15 of the Covenant of the League of Nations. This provision shall not apply in the case provided for in Art. 7.

Chapter IV. — General Provisions

Arts. 25–30 are Arts. 32–37 of Convention A.

Convention C — Bilateral Conciliation Convention

Art. 1. Disputes of every kind which may arise between the high contracting parties and which it has not been possible to settle by diplomacy shall be submitted, under the conditions laid down in the present convention, to settlement by recourse to the procedure of conciliation.

Art. 2 is Art. 2 of the General Act.

Art. 3 is Art. 29, 1, of the General Act.

Arts. 4–5 are Arts. 30–31 of the General Act.

Arts. 6–19 are Arts. 3–16 of the General Act.

Art. 20 is Art. 33, 2 and 3, adapted, of the General Act.

ART. 21. 1. The present convention shall be applicable as between the high contracting parties, even though a third power has an interest in the dispute.

2. The parties may agree to invite such third power to intervene.

Arts. 22–24 are identic with Arts. 35–37 of Convention A.

ART. 22. Disputes relating to the interpretation or application of the present convention, including those concerning the classification of disputes . . . [1] shall be submitted to the Permanent Court of International Justice.

Treaty D — Collective Treaty of Mutual Assistance

CHAPTER I. — NON-AGGRESSION AND MUTUAL ASSISTANCE

ART. 1. Each of the high contracting parties undertakes, in regard to each of the other parties, not to attack or invade the territory of another contracting party, and in no case to resort to war against another contracting party.

This stipulation shall not, however, apply in the case of:

(1) The exercise of the right of legitimate defense — that is to say, resistance to a violation of the undertaking contained in the first paragraph;

(2) Action in pursuance of Art. 16 of the Covenant of the League of Nations;

(3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations or in pursuance of Art. 15, par. 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a state which was the first to attack.

ART. 2. Each of the high contracting parties undertakes, in regard to each of the others, to submit to a procedure of pacific settlement, in the manner provided for in the present treaty, all questions whatsoever on which they may differ and which it has not been possible to settle by the normal methods of diplomacy.

ART. 3. Should any one of the high contracting parties consider that a violation of Art. 1 of the present treaty has taken place or is taking place, it shall immediately bring the question before the Council of the League of Nations.

As soon as the Council of the League of Nations has ascertained that such a violation has taken place, it shall at once advise the powers which have signed the present treaty, and each of these powers undertakes in such a case to give assistance forthwith to the power against which the act complained of has been directed.

[1] If the convention contains reservations, it would be convenient to add: "and the scope of reservations," which would be specified in an article immediately preceding.

ART. 4. 1. Should one of the high contracting parties refuse to accept the methods of pacific settlement provided for in the present treaty or to execute an arbitral award or judicial decision and be guilty of a violation of Art. 1 of the present treaty, the provisions of Art. 3 shall apply.

2. Should one of the high contracting parties, without being guilty of a violation of Art. 1 of the present treaty, refuse to accept the methods of pacific settlement or to execute an arbitral award or judicial decision, the other party shall inform the Council of the League of Nations, which shall propose the methods to be adopted; the high contracting parties shall accept these proposals.

CHAPTER II. — PACIFIC SETTLEMENT OF DISPUTES

ART. 5. 1. The following provisions shall apply to the settlement of disputes between the parties, subject to any wider undertakings which may result from other agreements between them.

2. The said provisions do not apply to disputes arising out of facts prior to the present treaty and belonging to the past.

ART. 6.[1] 1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.

2. Nevertheless, if these conventions only provide for a procedure of conciliation, after this procedure has been employed without result, the provisions of the present treaty concerning judicial or arbitral settlement shall be applied in so far as the disputes are of a legal nature.

Section I. — Judicial or Arbitral Settlement

Arts. 7–11 are Arts. 17, 18, 19 and 32 of the General Act and Art. 7 of Convention A.

Section II. — Conciliation

ART. 12. All disputes the settlement of which cannot, under the terms of the present treaty, be attained by means of a judicial or arbitral award, shall be submitted to a procedure of conciliation.

Arts. 13–27 are Arts. 2–16 of the General Act.

ART. 28.[2] If the parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission, the dispute remains subject to be dealt with in accordance with Art. 15 of the Covenant of the League of Nations. This present provision shall not apply in the case provided for in Art. 11.

[1] Par. 1 is Art. 29, 1, of the General Act.

[2] Same as Art. 24, Convention B.

Chapter III. — General Provisions

Arts. 29–32 are Arts. 33–37 and 41 of the General Act.

Arts. 33–35 are formal.

Treaty E — Collective Treaty of Non-Aggression

Chapter I. — Non-Aggression

Arts. 1–2 are Arts. 1–2 of Treaty D.

Art. 3.[1] Should any one of the high contracting parties consider that a violation of Art. 1 of the present treaty has taken place or is taking place, it shall immediately bring the question before the Council of the League of Nations.

Chapter II. — Pacific Settlement of Disputes

Arts. 4–5 are Arts. 5–6 of Treaty D.

Sec. I, Arts. 6–10, and Sec. II, Arts. 11–27, are Arts. 7–11 and Arts. 12–28 of Treaty D.

Chapter III. — General Provisions

Arts. 28–34 are Arts. 29–35 of Treaty D.

Treaty F — Bilateral Treaty of Non-Aggression

Chapter I. — Non-Aggression

Arts. 1–3 are Arts. 1–2 and 3, par. 1, Treaty D, and identic with Treaty E.

Chapter II. — Pacific Settlement of Disputes

Arts. 4–27 are Arts. 5–28 of Treaty D.

Chapter III. — General Provisions

Arts. 28–30 are Arts. 33, 35–37, 41 of the General Act.

Arts. 31–33 are formal.

[1] Par. 1 of Art. 3, Treaty D.

THE PACIFIC AREA

AN INTERNATIONAL SURVEY

By GEORGE H. BLAKESLEE

Professor of History and International Relations at Clark University

WORLD PEACE FOUNDATION PAMPHLETS

40 MT. VERNON STREET, BOSTON

VOL. XII 1929 NO. 3

Copyright, 1929
By World Peace Foundation
Boston, Massachusetts

CONTENTS

	PAGE
INTRODUCTION	1
I. CHINA'S RELATIONS WITH THE POWERS AS A WHOLE: THE UNEQUAL TREATIES	4
Tariff autonomy	5
The Chinese maritime customs service	17
Extraterritoriality	19
Treaty revision	33
Concessions and settlements	44
Other unequal privileges	55
Leaseholds	55
Foreign troops and warships in China	57
Inland navigation	58
Missionaries	59
Financial supervision and control	59
The recognition of the National Government	61
The new capital at Nanking	61
II. CHINA'S RELATIONS WITH INDIVIDUAL POWERS	66
United States	66
Great Britain	71
Japan	73
Soviet Union	80
III. MANCHURIA	88
Map opposite	88
Sino-Soviet relations	89
Soviet-Japanese relations	100
Sino-Japanese relations	102
Fundamental divergence in viewpoint	102
The concrete issues	107
Railroad controversies	109
The proposed Morgan loan	113
Maintenance of peace and order	116
IV. JAPAN'S FOREIGN RELATIONS	120
Relations with the Soviet Union	120
Relations with America	123
Immigration exclusion	125
V. THE BRITISH DOMINIONS	127
Australia	128
VI. AGREEMENTS FOR PRESERVING PEACE IN THE PACIFIC	131
Limitation of fortifications and naval bases	131
Four power pact	132
Nine power treaty regarding China	133
Pact of Paris	134
League of Nations	135
Bipartite treaties for promotion of peace	136
Suggestions for additional treaties	138

APPENDIX

PAGE

I. China and Foreign Powers 139
1. Declaration by the Nationalist Government, June 16, 1928 139
2. Declaration by the ministry of foreign affairs of the Nationalist Government, July 8, 1928 . . . 140
3. Resolution passed by the Third National Congress of the Kuomintang with regard to China's foreign relations, March 15–28, 1929 141
4. Manifesto of the Kuomintang Central Executive Committee, June 18, 1929 144

II. Chinese Treaty Revision 148
1. American and British policy 148
Note of the Nationalist minister for foreign affairs (General Hwang Fu) to the American minister, Shanghai, April 2, 1928; Dr. C. T. Wang to the British minister, Shanghai, August 9, 1928 . . 148
The American minister to China, J. V. A. MacMurray, to General Hwang Fu, minister for foreign affairs, Nanking, April 2, 1928 . . 148
The British minister, Sir Miles W. Lampson, to Dr. C. T. Wang, minister for foreign affairs, August 9, 1928 149
2. The Sino-Japanese negotiations 150
Memorandum of the Nationalist Government, August 14, 1928 150
The Japanese minister to the Chinese minister for foreign affairs, April 26, 1929 152
The Chinese minister for foreign affairs to the Japanese minister, April 27, 1929 154

III. Settlement of the Nanking Incident of March 24, 1927 155
1. Verification of injuries and damages 155
Note of the Nationalist minister for foreign affairs to the American minister, Shanghai, April 2, 1928; to the British minister, Shanghai, August 9, 1928, and to the Japanese minister, Nanking, May 2, 1929 155
The American minister to China, J. V. A. MacMurray, to General Hwang Fu, minister for foreign affairs, Nanking, April 2, 1928 . . 156
The British minister, Sir Miles W. Lampson, to Dr. C. T. Wang, minister for foreign affairs, August 9, 1928 157
The Japanese minister to Dr. C. T. Wang, minister for foreign affairs, May 2, 1929 157
2. Use of war vessels — expressions of regret . . . 158
Note of the Nationalist minister for foreign affairs (General Hwang Fu) to the American minister, Shanghai, April 2, 1928, and of Dr. C. T. Wang to the British minister, Shanghai, August 9, 1928 158
The American minister to China, J. V. A. MacMurray, to General Hwang Fu, minister for foreign affairs, Nanking, April 2, 1928 . . . 158
The British minister, Sir Miles W. Lampson, to Dr. C. T. Wang, minister for foreign affairs, August 9, 1928 159

PAGE

IV. Chinese Tariff Autonomy 160
1. Treaty regulating tariff relations between the United States of America and the Republic of China, signed at Peiping, July 25, 1928 . . . 160
France — special conditions 161
Netherlands — special conditions 163
2. Treaty between His Britannic Majesty and the President of the Chinese Republic relating to the Chinese customs tariff, etc., with the annexes thereto, signed at Nanking, December 20, 1928 . 164
3. Preliminary treaty of amity and commerce between the Republic of China and the Kingdom of Italy, signed at Nanking, November 27, 1928 . . 167
Portugal — special conditions 169

V. Extraterritoriality in China 171
1. Recommendations in the report to the Governments of the Commission on Extraterritoriality in China, Peking, September 16, 1926 171
2. Preliminary treaty of amity and commerce between the Republic of China and the Kingdom of Italy, signed at Nanking, November 27, 1928 . . 174
Annex I — Notes between Dr. C. T. Wang and the Italian minister for foreign affairs 175
Annexes II, III, IV — Declarations in treaties with Belgium, Denmark, Italy, Portugal and Spain . 176
Belgium — special stipulation 177
3. Chinese note concerning abolition of extraterritoriality, April 27, 1929 177
4. American Government's reply to the Chinese note on extraterritoriality, August 10, 1929 . . . 179

VI. Japanese Policy Toward China 183
1. Statement of Premier Tanaka at the Oriental Conference, July 7, 1927 183
2. Premier Tanaka's statement of policy to the Imperial Diet, January 22, 1929 185
3. Manifesto of the Japanese Cabinet, July 9, 1929 . 186

VII. Manchuria 188
1. Japanese interests and policy 188
a. Interests 188
Convention between Russia and China for the lease of the Liaotung Peninsula, signed at Peking, March 27, 1898 188
Treaty of peace between Japan and Russia, signed at Portsmouth, September 5, 1905 . . . 190
Treaty between China and Japan relating to Manchuria, signed at Peking, December 22, 1905 190
Treaty between China and Japan respecting South Manchuria and Eastern Inner Mongolia, signed at Peking, May 25, 1915 . . . 191
Exchange of notes respecting the terms of lease of Port Arthur and Dalny and the terms of South Manchurian and Antung-Mukden Railways 191

PAGE

b. Policy . . . . . .
Statement by Baron Tanaka to the ambassadors of America, Great Britain, France and Italy, May 17, 1928 192
Memorandum presented by the Japanese minister to Marshal Chang Tso-lin, May 18, 1928 . 192
Declaration of the Peking Government, May 25, 1928 193
2. Soviet relations and activities 194
a. General relations 194
Agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, signed at Peking, May 31, 1924 . . . 194
Exchange of notes 199
b. Chinese Eastern Railway 199
Contract for the construction and operation of the Chinese Eastern Railway between Russia (Russo-Chinese Bank) and China, September 8, 1896 199
Agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, signed at Peking, May 31, 1924 . . . 202
Agreement for the provisional management of the Chinese Eastern Railway, signed at Peking, May 31, 1924 203
Agreement entered into between the Autonomous Government of the Three Eastern Provinces of the Republic of China and the Government of the Union of Soviet Socialist Republics, signed at Mukden, September 20, 1924 . . . 206
c. Dispute over Chinese assumption of railway control and communist activities 209
The Soviet acting commissar to the Chinese chargé d'affaires at Moscow, July 13, 1929 . 209
The Soviet acting commissar to the Chinese chargé d'affaires at Moscow, July 18, 1929 . 214
Communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war, August 19, 1929 216

PAGE

VIII. AGREEMENTS FOR PEACE 220

1*a*. Treaty between the United States, the British Empire, France and Japan, relating to their insular possessions and insular dominions in the region of the Pacific Ocean, signed at Washington, December 13, 1921 220

Reservation of the United States 221

Declaration signed separately by United States, the British Empire, France and Japan, December 13, 1921 221

1*b*. Treaty between the United States, the British Empire, France and Japan supplementary to the treaty relating to their insular possessions and insular dominions in the region of the Pacific Ocean, signed at Washington, February 6, 1922 . . 221

2. Treaty between the United States, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington, February 6, 1922 222

3. Treaty for the renunciation of war as an instrument of national policy, signed at Paris, August 27, 1928 223

THE PACIFIC AREA
AN INTERNATIONAL SURVEY

By George H. Blakeslee

INTRODUCTION

So rapid has been the change in the international situation in the area of the Pacific that some of the old landmarks are now scarcely discernible. We no longer see a group of military powers making aggressive demands upon a helpless China; to-day it is China which is making the demands upon the other states. The international issues which are pressing for settlement, some of them dating back many years, others recently arisen from the new developments in the Far East, are in several instances both dangerous and difficult, threatening the peace of this region and involving a conflict between claims of right each based upon a different set of fundamental principles. To present a survey of this situation and its problems is the aim of this volume. Giving only enough historical background to make existing conditions understandable, it attempts to set forth the factors which are to-day most important in the relations of the leading countries: the treaties which bind them, their announced aims and policies, their agreements for common action, their conflicts of interest and the issues remaining to be solved.

Nationalist China, with a Government entitled to speak for the country as a whole, is demanding the revision of those treaties which granted the exceptional privileges which have been enjoyed by foreign states and their

nationals for over 80 years. It has already regained important rights. Due to treaties and agreements signed during the past few months it now has in force, for the first time since 1843, a national tariff of its own choosing and awaits only a settlement with Japan to obtain unquestioned tariff autonomy. It has extended its jurisdiction over several of the areas in treaty-ports which for years have been administered by foreigners. But regarding extraterritoriality China and the leading Pacific powers are at issue. Although some states such as Germany and Russia have already lost their extraterritorial rights in China, and although others, including Belgium, Denmark, Italy, Portugal and Spain, have promised to relinquish them as soon as the other powers do so, the United States, Great Britain, Japan and France decline to give up these privileges completely at the present time. The opposing points of view on this issue are presented in this study, together with references to the pertinent source material. But as to the treaties upon which extraterritoriality rests, it is pointed out that the Chinese although thus far respecting them do not regard them as morally or legally binding, maintaining that changed conditions have rendered them no longer applicable.

Although the treaty-powers have certain interests in common in China, each of them has its own aims and policies; and these have been described. Great Britain has adopted a new program of conciliation, announced in December, 1926; and Japan with its important interests in China has varied from a friendship policy under Baron Shidehara to a positive policy under Baron Tanaka, and recently back again to the friendship policy. But the most sudden and dramatic change has been in the relations between China and the Soviet Union: less than three years ago Russia was popular and influential to a degree never reached by any other nation in China; to-day its representatives have been driven from the country.

Of all the issues in the Pacific area, those which are fraught with the greatest danger center in Manchuria,

where meet the conflicting interests and policies of China, Russia and Japan. However difficult of settlement are the opposing claims of China and Soviet Russia regarding the Chinese Eastern Railway, probably more difficult of adjustment are the respective rights maintained by China and Japan in South Manchuria. To these involved issues a chapter has been devoted.

There are problems in the Pacific area which deserve careful study aside from those which concern China. Of particular importance are the relations of Japan with Russia and with America. Toward the Soviet Union Japan is attempting the somewhat difficult task of developing friendly economic contacts abroad and of stamping out at home the Soviets' doctrine of communism. Between Japan and the United States the only important issue is that of the exclusion provision of the Immigration Act of 1924, which Japanese opinion regards as humiliating. The issue of immigration in its wider aspects is linked with Japan's problem of "population and food supply" which many believe is the most serious in the Pacific. It is not only the United States which excludes Oriental labor; the same position is taken in general by the British Dominions.

In conclusion, a description has been given of the treaties and organizations now in existence for the maintenance of international understanding and the avoidance of war in the Pacific, especially Secretary Stimson's application of the Pact of Paris to the Sino-Soviet dispute over the Chinese Eastern Railway, and an outline presented of the additional measures which have been suggested for safeguarding the peace of this region.

The issues and problems which have been considered in this volume will shortly be the subject of study and discussion by the unofficial representatives of the countries concerned at the Kyoto Conference of the Institute of Pacific Relations — an event which has, in largest measure, prompted the preparation of this international survey of the Pacific area.

I. CHINA'S RELATIONS WITH THE POWERS AS A WHOLE: THE UNEQUAL TREATIES

Foreigners of many countries enjoy to-day in China exceptional rights which Chinese do not enjoy in other lands. The treaties which grant these privileges are called by the Chinese, by way of reproach, the "unequal treaties." This term, however, is somewhat resented by many Westerners, who insist that these international agreements were necessary to obtain for foreigners in China the minimum safeguards for person and property demanded by international law of all countries in the family of nations.

Of these treaties the most important were those of Nanking, 1842,[1] and its supplementary agreements, made with Great Britain, which opened five Chinese cities to foreign residence — leading to the establishment in these cities of semi-independent, foreign-administered municipal areas — and placed limitations upon the customs duties which China might levy upon foreign goods; Wanghia, 1844,[2] with the United States, which made provision for the rights of extraterritoriality; Tientsin and Peking, 1858 and 1860,[3] with France, Great Britain, Russia and the United States, which opened additional cities, gave exceptional rights to Christian missionaries, and strengthened and extended the privileges previously granted; and the protocol of 1901,[4] at the close of the Boxer uprising, which empowered the 11 signatory states to fortify the Legation Quarter in Peking and to guard by troops the

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, p. 351.

[2] Malloy, William M., *Treaties, Conventions*, etc., Vol. I, p. 202; for excerpts from the treaty, see Hornbeck, Stanley K., *China To-day: Political*, p. 494.

[3] *China. Maritime Customs. Treaties, Conventions, etc.*, p. 85, 101, 404, 430, 713, 814, 885; for excerpts, see Hornbeck, *op. cit.*, p. 496.

[4] MacMurray, J. V. A., *Treaties and Agreements With and Concerning China*, Vol. I, p. 278.

route from Peking to the sea. By the most-favored-nation clause a grant made to the nationals of any one power was legally extended to those of every other power which had a treaty with China containing this clause. There was thus developed in China a system of rights which was enjoyed by the nationals of most foreign countries. In addition, a number of the powers, France, Germany, Great Britain, Japan and Russia, obtained by cession or long-term lease valuable areas in China and important railroad and other economic concessions.

But the strong nationalism of China, somewhat recently developed, stimulated emotionally by the unfortunate events of 1925 and strengthened by the unification of the country in 1928, is demanding the abrogation of these unequal treaties and the cancellation of all exceptional grants previously made to other states and their nationals. Of these foreign privileges the Chinese object particularly to tariff control, extraterritoriality and the administration of treaty-port concessions and settlements. The recent diplomatic history of China centers around its effort to regain its normal sovereign rights.

Tariff Autonomy

It is in freeing itself from the foreign control of its tariff rates, that is, in winning tariff autonomy, that China has been most successful. Before the treaty of Nanking, to quote the statement of the treaty-powers in their identic note to China of September 4, 1925, there had been "irregular, arbitrary and varying methods in the assessment and the collection of the duties." By that treaty and its supplementary agreements of the following year it was stipulated that the duties upon British imports and exports should be uniform and on a basis of approximately 5% ad valorem. After other states had obtained the same rights regarding the tariff by virtue of the most-favored-nation clause, a situation developed where China was unable to raise its tariff rates without the unanimous agreement of all the treaty powers.

This foreign control of China's tariff rates has continued until the present year, 1929, with relatively slight modification. In accordance with the treaty of Tientsin, 1858, the rates were revised in that year and for the most part were made specific instead of upon an ad valorem basis. In three later years, 1902, 1918 and 1922 — following the Boxer Settlement, China's entry into the World War and the Washington Conference — the powers agreed, on account of the general rise in prices, to allow increases in the specific customs duties in order to give China an effective 5% ad valorem.

To obtain an increase in these 5% duties and, if possible, complete freedom from foreign control, has been one of the foremost aims of China for some 30 years. The problem was difficult because of the necessity of obtaining the consent of all treaty-powers, and was complicated by the existence of transit duties and likin,[1] levied upon foreign goods in the interior, which the powers wished to abolish.

There were many reasons advanced by the Chinese in favor of tariff autonomy. The régime of control by the treaty-powers with a limitation upon import duties of 5% was a violation of the normal sovereign rights of an independent state. It resulted in a continuous loss of revenue to the Government as compared with other countries which levied an average rate upon their imports of from 15% to 60%. It was an impediment to China's economic development since it prevented tariff reciprocity with other states and made it impossible to encourage native industry by a protective tariff. It was unscientific in that it required the same duty upon both luxuries and the necessities of life.[2]

[1] "'*Likin*' was, in its original and strict meaning, a charge levied on goods in transit, calculated on the value of the goods, at the rate of one or more thousandths. But in a broad sense and in popular usage the term 'likin' is *now* employed to designate collectively a broad category of taxes levied in varying amounts and under a variety of names upon internal trade." Hornbeck, *op. cit.*, p. 460.

[2] Summarized from the statements of the Chinese delegation at the Washington Conference; see Willoughby, W. W., *Foreign Rights and Interests in China*, Vol. II, Chap. XXXI, esp. p. 788–791, 806–809; *Conference on the Limitation of Armament*, p. 1174 *ff*.

The first step in the long struggle to obtain tariff autonomy was taken in 1902 and 1903, when Great Britain, Japan and the United States agreed that China might levy 12½% duties upon imports and 7½% upon exports, provided that likin and transit dues should be abolished and provided further that similar agreements should be made by all other treaty-powers. Since the other states with the exception of Sweden did not take such action, these provisions never came into effect; but they remained for some years the immediate goal for which China was striving. After the World War, at the Paris Peace Conference, the Chinese delegation asked for tariff autonomy, but the powers regarded the matter as outside the scope of the conference. At the Washington Conference, 1921–1922, the Chinese delegation made an able plea for an immediate increase in duties and for early tariff autonomy. The assembled powers, however, only arranged for a special conference to prepare for the abolition of likin and for the tariff increases named in the treaties of 1902 and 1903; and authorized it, in advance, to agree to the levying of surtaxes — that is, additional duties above the regular 5% — amounting to 2½% ad valorem upon all imports, and to 5% upon luxuries. These additional duties, although never legally and specifically granted, were popularly termed "the Washington Conference surtaxes."

The Special Tariff Conference, attended by 13 powers,[1] met in Peking in October, 1925, and remained in session until July, 1926, when it adjourned. It did not draw up a treaty, nor grant the surtaxes, nor take any action which had legally binding force. Nevertheless, it was of much importance in the history of the tariff controversy. The delegates agreed by resolution upon two significant articles to be included in the treaty which they expected to draw up and sign: first, the powers other than China agreed to

[1] The nine Washington Conference powers, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands, Portugal and the United States; and the four states which had adhered to the Nine-Power Treaty, Denmark, Norway, Spain and Sweden.

China's tariff autonomy by January 1, 1929; and, second, China agreed to abolish likin by that same date. Although these articles had no technical validity since no treaty was signed, the Chinese leaders have regarded this resolution as morally committing the powers to tariff autonomy by the date specified, and some at least of the foreign diplomats have held much the same point of view.[1]

After the Peking conference some friction developed regarding the "Washington conference surtaxes." These 2½% and 5% additional duties were collected in their respective territories first by the Nationalist Government, then in control in the South, and later by the Peking Government of the North. Since these surtaxes had never been legally granted by the powers, and were therefore technically in violation of their treaty rights, the powers at first united in a protest against their collection. But they took no action to enforce their protest. The British Government even advised its nationals to pay the surtaxes.[2] But when the Nationalist Government in the summer of 1927 attempted to levy surtaxes of 30% on wines and spirits, and 50% on tobacco, the British and Japanese courts and the American consul-general at Shanghai used their extraterritorial powers to prevent it.[3]

The principal difficulty in coming to any international agreement upon tariff autonomy was the absence of any Government in China which could speak for the country as a whole. The failure of the Peking tariff conference was largely due to the fact that

the Nationalist Government and the Nationalist armies served notice (in July, 1926) that they would respect no treaty which might be negotiated by the Peking Government.[4]

[1] For the proceedings of the tariff conference, see *China Year Book, 1926*, Chap. XXIX.

[2] *China Year Book, 1928*, p. 1065.

[3] *Ibid.*, p. 1073–1076; Toynbee, Arnold J., *Survey of International Affairs*, 1927, p. 377–379.

[4] Hornbeck, *op. cit.*, p. 465; for the official notes, see *China Year Book, 1926*, p. 1142–1146.

Under these circumstances, the British Government communicated a memorandum, December 18, 1926, to the representatives of the Washington treaty-powers, proposing that these powers should issue a statement

declaring their readiness to negotiate on treaty revision and all other outstanding questions as soon as the Chinese themselves have constituted a Government . . . should declare their readiness to recognize her right to the enjoyment of tariff autonomy as soon as she herself has settled and promulgated a new national tariff . . .[and, without waiting for treaty revision] should now authorize immediate levy of the Washington surtaxes unconditionally throughout China.[1]

Evidently as a result of the British proposal to the powers, the United States through its Secretary of State, Mr. Kellogg, issued a statement regarding American policy in China, January 27, 1927, which said in part:

The United States is now and has been, ever since the negotiation of the Washington treaty, prepared to enter into negotiations with any Government of China, or delegates who can represent or speak for China, not only for the putting into force of the surtaxes of the Washington treaty, but entirely releasing tariff control and restoring complete tariff autonomy to China. . . . The Government of the United States was ready then [at the time of the adjournment of the Peking conference] and is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. . . . However, existing treaties which were ratified by the Senate of the United States can not be abrogated by the President but must be superseded by new treaties negotiated with somebody representing China and subsequently ratified by the Senate of the United States.[2]

[1] Excerpts from Secs. 6, 7 and 13 of the statement, *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XI, p. 99–103; Toynbee, *op. cit.*, 1926, p. 489–492; *China Year Book, 1928*, p. 757–759. The statement was reiterated in a letter of February 8, 1927, which was circulated to Member states of the League of Nations by request of the British Government, and published in the League of Nations, *Official Journal*, Vol. VIII, p. 293.

[2] Hornbeck, *op. cit.*, p. 550; *Current History*, March, 1927, Vol. XXV, p. 903.

The United States by this statement refused to grant China either the Washington surtaxes or tariff autonomy without the negotiation of a definite treaty. The Japanese Government was also unwilling to accept the British proposal. Baron Shidehara, the Japanese Minister for Foreign Affairs, stated in a speech before the Imperial Diet, January 16, 1927:

> We have no objection to the levying of the surtaxes as provided for in the Washington customs treaty. But we must make it reasonably certain that such additional customs revenue shall not be applied, directly or indirectly, to purposes of civil war, or that it shall not be appropriated for the private use of a faction or factions.[1]

Efforts were made in the winter months of 1927–1928 to induce both the Nationalist and the Peking Governments to appoint an equal number of delegates to represent China in the negotiation of a new tariff treaty. At one time this plan gave much promise of success. But the northern drive of the Nationalist armies in the spring of 1928, and the subsequent capture of Peking, justified the Nanking Government in regarding itself as the authorized spokesman for China as a whole.

The United States was the first of the powers to take advantage of the new situation to grant in principle to China complete tariff autonomy. A treaty signed July 25, 1928, by John Van Antwerp MacMurray, American Minister to China, and Mr. T. V. Soong, Minister of Finance of the Nationalist Government, stated:

> All provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply, subject, however, to the condition that each of the high contracting parties shall enjoy in the terri-

[1] Toynbee, *op. cit.*, 1926, p. 507.

tories of the other with respect to the above specified and any related matters treatment in no way discriminatory as compared with the treatment accorded to any other country.

The nationals of neither of the high contracting parties shall be compelled under any pretext whatever to pay within the territories of the other party any duties, internal charges or taxes upon their importations and exportations other or higher than those paid by nationals of the country or by nationals of any other country.[1]

This treaty did not of itself grant to China tariff autonomy. But it did lead the way for the other treaty powers whose consent was necessary for the abolition of all foreign control over the Chinese customs — and this apparently was its purpose. Secretary Kellogg said in his letter which accompanied the treaty into the Senate:

It is believed that by the signing of this treaty a benefit has been conferred upon all concerned, in that, while safeguarding American interests and doing no injury to the interests of any other country, the way has been provided for a procedure whereby the powers may relinquish their so-called "control" over China's tariff. It is believed, moreover, that this action is in conformity with the traditional American policy of friendship toward the Chinese nation.[2]

During the following November and December all but one of the other powers claiming control over China's tariff signed treaties granting tariff autonomy. In order of signature they were Norway, Belgium, Italy, Denmark, Portugal, the Netherlands, the British Empire, Sweden, France and Spain.[3] Some of these treaties followed closely the wording of the American treaty, and limited their pro-

[1] United States, *Treaty Series*, No. 773; *American Journal of International Law*, Official Documents, October, 1928, Vol. XXII, p. 170–171. Ratifications were exchanged at Washington, February 20, 1929, but by the terms of the treaty its provisions did not become effective until four months later — long after the Chinese national tariff had been put into operation.

[2] *Cong. Record*, 70th Cong., 2d sess., p. 3234.

[3] For texts see *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 7–51.

visions to the subject of the tariff. Others included additional matters, particularly extraterritoriality.[1]

By the opening of the new year, 1929, therefore, all the powers represented at the Peking conference of 1925, with the single exception of Japan, had by treaty relinquished their control over China's customs duties, subject to the pledge that there should be no discrimination in tariff matters. The other powers which had formerly shared in tariff control, Austria-Hungary, Germany[2] and Russia, had already lost their rights in consequence of the World War and the Russian Revolution and the treaties made with China shortly thereafter. In the meantime, the Chinese Government had come to the important decision that upon February 1, 1929, it would put into effect a new national tariff with much higher duties and, on December 6, 1928, Foreign Minister C. T. Wang sent notes to the powers having tariff treaties with China inclosing copies of the new schedules.[3]

Japan has believed that it would suffer more than any other country by an increase in the Chinese tariff. It has come to export low-priced goods to China upon a large scale, especially cheap-grade cotton cloth, which would be seriously affected by an appreciable increase in customs duties. This situation has often been explained by Japanese spokesmen. At the Washington Conference, the Japanese subcommittee on the Chinese tariff reported that "the country which would suffer most by the revised tariff would be Japan," since "Japan supplies those articles which are

[1] These treaties comprise two classes: first, those with five states (Belgium, Denmark, Italy, Portugal and Spain) whose former treaties had, in the view of the Chinese Government, already expired. These are designated as preliminary treaties of amity and commerce, and deal with both tariff and extraterritoriality. Second, those with six states (British Empire, France, Netherlands, Norway, Sweden and United States) whose commercial treaties are admittedly in force. These new treaties are therefore limited solely to the tariff.

[2] Germany and China agree by Art. 4 of their treaty of May 20, 1921, and Art. 1 of their treaty of August 17, 1928, that each state shall regulate its own customs, but that neither shall be subject to any discriminatory treatment. League of Nations, *Treaty Series*, Vol. IX, p. 285; *Chinese Social and Political Science Review*, Public Documents Supplement, October, 1928, Vol. XII, p. 71. An equivalent provision is in Art. VIII of the treaty with Austria of October 19, 1925, League of Nations, *Treaty Series*, Vol. LV, p. 22.

[3] *Week in China*, December 8, 1928, Vol. XII, p. 15.

mostly sold to the lower class of people in China to satisfy their daily need." The Japanese subcommittee at that time, therefore, objected to an immediate increase of the Chinese tariff to even an effective 7½%.[1] The same view was presented at the Peking conference. Minister Yoshizawa of the Japanese delegation, stated in committee November 6, 1925:

> An immediate enforcement of a surtax at a higher rate than 2½% would seriously disturb the trade relations between China and other countries and more particularly would vitally affect the industry and commerce of Japan.[2]

In consequence of this conviction, the Japanese delegation, while agreeing to tariff autonomy for China by January 1, 1929, proposed that during the interim period, somewhat over three years,

> China, on the one hand, and the other contracting powers, on the other, shall conclude severally treaties which may incorporate reciprocal conventional tariffs to be applied on certain special articles if so desired by both parties. The new treaties so concluded shall continue in force for a certain definite period.[3]

In other words, Japan proposed at the Peking conference that before tariff autonomy should go into effect, her Government should be given the opportunity to negotiate a special treaty with China which would, for a term of years, maintain a reasonably low rate upon those exports from Japan which would suffer most severely by a marked increase in duties. This proposal has been criticized by many Chinese writers and their friends.[4]

It is evident, therefore, that the Japanese Government must have been reluctant to agree to follow the example

[1] Willoughby, W. W., *Foreign Rights and Interests in China*, Vol. II, p. 797.

[2] *China Year Book, 1926*, p. 1134.

[3] *Ibid.*, p. 1128.

[4] Bau, M. J., *China and World Peace*, p. 82; Willoughby, *op. cit.*, Vol. II, p. 838–839; *Week in China*, December 8, 1928, Vol. XII, p. 20–21.

of other powers and give China tariff autonomy, before some assurance was obtained that the duties on articles in which the Japanese were especially interested would be maintained at reasonably low rates. The problem was further complicated by other issues which were under negotiation between China and Japan at the time. However, on January 30, two days before China was to put its national tariff into force, Japan gave its consent to China's new tariff for the period of one year. The notes exchanged between the representatives of the two Governments have not at this writing been made public, so that it is impossible to state their exact provisions. It appears probable that Japan has given no more than a temporary assent to China's new tariff, with the expectation that within a year a satisfactory commercial treaty, dealing with the customs duties, will be negotiated.

On February 1, therefore, China's new national tariff went into effect.[1] In Nanking the day was proclaimed a holiday, and in that city and in Shanghai there were displays of flags and parades and demonstrations.

This new tariff autonomy, however, is subject to certain temporary limitations, the most important of which is that the recently established tariff duties are not to be increased for at least a year. This restriction is found in Annex III of the Sino-British treaty.[2] While the American treaty, and most of the other recent tariff treaties, granted to China complete and unrestricted tariff autonomy, this pledge to Great Britain, by virtue of the treaty provisions against discrimination, becomes also a pledge to the other treaty-powers.

The new national tariff, put into force February 1, 1929, is substantially the same as the one provisionally adopted at the Peking tariff conference in 1926 as an ad interim measure to be effective until complete tariff autonomy should go into effect, January 1, 1929.[3] The rates are moderate. Some items are on the free list: cereals and

[1] *Week in China*, February 2, 1929, Vol. XII, p. 98–99.

[2] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319.

[3] *Ibid.*, p. 7.

flour, books and periodicals. The duties on imports vary from 7½% to 27½% ad valorem, with a 32½% excise upon cigars and cigarettes.

Should Japan and China fail to conclude a new commercial treaty within the coming year, it may be that the Japanese Government will claim, on a strictly legal basis, that China is still under treaty obligations to levy no higher duties than the former 5% ad valorem. The contention would be that since the agreement of January 30, 1929, merely gave Japan's consent to the new national tariff for a period of a year, the year having expired, the provisions of the regular Sino-Japanese commercial treaty remained in force, and that these prevented China from increasing its tariff above 5% ad valorem. This contention would not be accepted by China, on the ground that the Sino-Japanese commercial treaty was legally terminated July 20, 1928, an issue which will be considered later in this study.

Likin, it is to be noted, was not abolished February 1, nor is its abolition made a condition of complete tariff autonomy. China has merely given an assurance, to be found in the annex to the British treaty, that it is the Government's "intention that goods having once paid import duty to the maritime customs in accordance with the rates imposed in the new or any subsequent national tariff will be freed as soon as possible from any levies of the nature specified;" that is, from "likin, native customs dues, coast trade duties and all other taxes on imported goods whether levied in transit or on arrival at destination." [1]

A complication exists at present in regard to the long-established preferential duties levied on the land frontiers of China. In Annex IV of the British treaty, the Chinese Government declared that

> it is their intention to apply the new customs tariff uniformly on all land and sea frontiers of China, and that, as from the date of

[1] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319, Annex III.

coming into force of the new tariff, the preferential rates at present levied on goods imported or exported by land frontier will accordingly be abolished.

The British Government stated that it was in full agreement with this declaration.[1] There existed by old treaties and agreements a system of reductions in the Chinese customs duties for goods imported or exported across the land frontiers between China and French Indo-China, Burma, Siberia and Chosen. The Washington Conference voted "in principle" to do away with these preferences, as is seen in Art. VI of the treaty relating to the Chinese customs tariff:

> The principle of uniformity in the rates of customs duties levied at all the land and maritime frontiers of China is hereby recognized. The special conference provided for in Art. II [the later Peking conference] shall make arrangements to give practical effect to this principle.[2]

But the Peking conference concluded no treaty, and the preferential duties at the land frontiers remained in force. Russia renounced in principle its right to reduced frontier duties by the agreement of 1924, and Great Britain and France lost their rights by the recent tariff treaties.[3]

Japan, however, maintains that its rights on the Manchurian-Korean border have not been lost. These rights

[1] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319, Annex IV.

[2] *Conference on the Limitation of Armament*, p. 1637.

[3] The Chinese Government at Peking, August 6, 1926, and the National Government in July, 1928, notified the French Minister of the termination of the Sino-French convention of April 25, 1886, the additional convention of June 26, 1887, and the convention supplementary to this convention, dated June 20, 1895, all of which dealt with frontier trade between China and France, and which provided for tariff reductions on exports and imports at the Indo-Chinese land frontier. With the signing of the Sino-French tariff treaty, December 22, 1928, it was agreed by an exchange of notes that negotiations should begin shortly for a new convention relating to Indo-China, and that during the continuance of the negotiations, if not protracted, the present reductions in the tariff at the land frontier should be continued. But the Chinese Minister for Foreign Affairs, Dr. C. T. Wang, stated that in any case the reductions in the tariff would cease to be applied beginning from March 31, 1929. *China. Maritime Customs. Treaties, Conventions, etc.*, 2d ed., Vol. I, p. 913, 925, 937; *China Weekly Review*, January 12, 1929, Vol. XII, p. 276–277.

were specified in an agreement in 1913,[1] and provide that dutiable goods between Manchuria and Chosen by rail via Antung pay only two-thirds of the regular maritime customs duties. After the Chinese Government had done away with the preferential frontier duty enjoyed by Russia, it announced that the one-third preference at Antung would be abolished on March 1, 1929. The Japanese vigorously objected to this action; Consul-General Hayashi officially protested on the ground that Japan's acceptance for a year of China's new tariff rates did not render obsolete existing treaties and agreements, and that the abrogation of the one-third preference at Antung was in violation of the Sino-Japanese agreement of May 29, 1913. A local Japanese paper even stated, "the Japanese are to resist the enforcement of the above change by force." As a result this preference was temporarily allowed to remain.[2]

Japan similarly objected to the levying at Dairen of a $2\frac{1}{2}\%$ additional export tax, which was recently assessed in conformity with the action of the Chinese customs authorities in southern China, where they have been collecting this duty at the ports in lieu of a $2\frac{1}{2}\%$ transit tax previously collected in the interior. In Manchuria, however, it is claimed, no such transit tax has previously been levied. The Japanese Government at Tokyo declined to admit the legality of this tax on the ground that the recent customs agreement with China had not recognized it. The introduction of the new levy was therefore postponed. The action of the Japanese Government shows that, in its view, its customs agreement of January 30 by no means granted to China complete and immediate tariff autonomy.[3]

The Chinese Maritime Customs Service

The Chinese Maritime Customs Service, which traces its beginning as far back as 1854, is a Chinese Government organization headed by a British subject who has unlimited

[1] MacMurray, *op. cit.*, Vol. II, p. 1039–1041.

[2] *Manchuria Daily News*, Monthly Supplement, March 1, 1929, p. 3.

[3] *Ibid.*, March 1, 1929, p. 1.

authority in this field. The well-known Sir Robert Hart was inspector-general for 45 years. At present the personnel consists of more than 5,000 Chinese and 1,000 foreigners, but the foreigners hold the highest offices. The Service is efficient and honest and has been of very great assistance to China. It is the customs which has been the security for many of the foreign loans to China and for the famous Boxer indemnity payments.

In February, 1927, Sir Francis Aglen, an Englishman who was then inspector-general, was dismissed from his position by the Chinese Government in Peking — although he was gazetted as on leave for one year — because he would not collect surtaxes which were contrary to treaties with the powers. Against this action the diplomatic corps formally protested.[1] Mr. A. H. F. Edwardes, another Englishman, was then appointed officiating inspector-general; but in January of the present year, Mr. F. W. Maze, also an Englishman, was made inspector-general by the National Government.[2]

The desire has been expressed by many Chinese that their Government should take over the administration of the customs service and displace the foreigners. The question, therefore, naturally arises, whether China is legally bound to maintain the present maritime customs service. In 1898 the Chinese Government promised the British Government that it would appoint an Englishman as inspector-general as long as the trade of Great Britain with China should be greater than that of any other country. "But," the Chinese note stated, "if at some future time the trade of some other country at the various Chinese ports should become greater than that of Great Britain, China will then, of course, not be bound to necessarily employ an Englishman as inspector-general." [3] Since the trade of Great Britain (even including Hong Kong) has for some years now been much exceeded by that of Japan,

[1] *China Year Book, 1928*, p. 1076–1077.

[2] *New York Times*, January 10, 1929.

[3] MacMurray, *op. cit.*, Vol. I, p. 105–106.

China is clearly under no further obligation on account of this promise.

There are, however, two financial agreements made by the Chinese Government with British and German banks, in 1896 and 1898, in which, as conditions of the loan, the Chinese Government promised to continue "the administration of the Chinese Imperial Maritime Customs Service as at present constituted through the continuance of the loan." Both of these loans are outstanding, and the longer-termed one can not be retired by the Chinese Government before 1943.[1]

The Chinese Government is, therefore, committed to maintain the customs service with foreigners at its head for some 14 years longer. This legal right of foreigners to continue supervision of the customs service is in conflict with the contention of the Nationalists that they have the moral right to take complete control of all of their domestic affairs.

Extraterritoriality

Now that a new Chinese national tariff is in force, and complete tariff autonomy seems assured, the outstanding issue between China and the powers as a whole relates to extraterritoriality. By treaty the nationals of 16 of the powers, including France, Great Britain, Japan and the United States, are now in China free from all jurisdiction of Chinese courts, being subject only to the control of their own consuls or own national courts established in China, and being tried under their own national laws. No matter what an American, for example, may do in China, he can not be brought before a Chinese tribunal.

This system of extraterritoriality was established by the supplementary treaty of 1843, following the treaty of Nanking of 1842 with Great Britain. The provisions were made more definite in the American treaty of Wanghia, 1844, and were elaborated and defined in various subsequent treaties. These privileges were then automatically

[1] MacMurray, *op. cit.*, Vol. I, p. 55, 107.

extended to all states enjoying most-favored-nation treatment. It is these states with extraterritorial rights which are known as "treaty-powers."[1]

The establishment of this system seemed to the foreigners reasonable and necessary on account of fundamental differences between the laws and judicial procedure of China and of the West, and the uncertainty of obtaining what the Occidental considers elementary justice in Chinese courts. This view is strikingly expressed by Mr. H. B. Morse, the outstanding foreign authority for the history of this period:

> The law of China was not the law of the West; the real point at issue, however, was not the difference in law but the uncertainty in its application — or, in plain terms, the certainty of corruption and bias in its administration.[2]

The Chinese maintain that, whatever the reasons for the introduction of extraterritoriality 80 years and more ago, its retention is no longer justifiable since the Chinese Government has made adequate changes in its law, its courts and its judicial administration to warrant the abolition of the whole system. The Chinese arguments were summarized at the Washington Conference by Dr. Wang Chung-hui, Chief Justice of the Supreme Court of China:

> *a.* In the first place, it is in derogation of China's sovereign rights, and is regarded by the Chinese people as a national humiliation.
>
> *b.* There is a multiplicity of courts in one and the same locality, and the interrelation of such courts had given rise to a legal situation perplexing both to the trained lawyer and to the layman.
>
> *c.* Disadvantages arise from the uncertainty of the law. The general rule is that the law to be applied in a given case is the law of the defendant's nationality, and so, in a commercial transaction

[1] The list includes Belgium, Brazil, the British Empire, Denmark, France, Italy, Japan, Mexico, the Netherlands, Norway, Peru, Portugal, Spain, Sweden, Switzerland and the United States.

[2] Morse, H. B., The Trade and Administration of the Chinese Empire, quoted in *Foreign Policy Association, Information Service*, December 18, 1925.

between, say, X and Y of different nationalities, the rights and liabilities of the parties vary according as to whether X sued Y first, or Y sued X first.

d. When causes of action, civil or criminal, arise in which foreigners are defendants, it is necessary for adjudication that they should be carried to the nearest consular court, which might be many miles away; and so it often happens that it is practically impossible to obtain the attendance of the necessary witnesses or to produce other necessary evidence.

e. Finally, it is a further disadvantage to the Chinese that foreigners in China, under cover of extraterritoriality, claim immunity from local taxes and excises which the Chinese themselves are required to pay. Sir Robert Hart, who worked and lived in China for many years, had said in his book, "These from the Land of Sinim," "The extraterritoriality stipulation may have relieved the native official of some troublesome duties but it has always been felt to be offensive and humiliating, and has ever a disintegrating effect, leading the people, on the one hand, to despise their own Government and officials, and, on the other, to envy and dislike the foreigner withdrawn from native control."[1]

Some of these defects of the extraterritorial system, such as those relating to the multiplicity of courts and the uncertainty of the law, operate to the disadvantage of the foreigners as well as of the Chinese. In addition, as Justice Wang pointed out, "until the system is abolished or substantially modified, it would be inexpedient for China to open her entire territory to foreign trade and commerce."[2] Thus far the right of foreigners to reside in China for purposes of trade has been confined to certain towns and cities, known as "open-ports" or "treaty-ports." Thoughtful foreigners realize the objections to extraterritoriality; and the leading powers have for years pledged themselves to give up their rights in this respect as soon as China's laws and judicial system should promise reasonable justice to foreign lives and property. Such a promise was incorporated in the treaties which Great

[1] *Conference on the Limitation of Armament*, Washington, 1921–1922, p. 932–933; 67th Cong., 2d. sess., Sen. Doc. No. 126, p. 475.

[2] *Ibid.*, p. 934.

Britain, Japan and the United States signed with China in 1902 and 1903. The British treaty of September 5, 1902, stated:

> China having expressed a strong desire to reform her judicial system and to bring it into accord with Western nations, Great Britain agrees to give every assistance to such reform, and she will also be prepared to relinquish her extraterritorial rights when she is satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warrant her in so doing.[1]

Articles containing the same terms appeared in the commercial treaties of 1903 with the United States and with Japan.[2] Sweden declared in her treaty of 1908 with China that "as soon as all the other treaty-powers have agreed to relinquish their extraterritorial rights, she also will be prepared to do so."[3]

The Chinese Government has made earnest efforts, especially from 1903, to bring its laws and legal system into greater harmony with Western standards. At the Paris Peace Conference the Chinese delegation asked for the immediate modification and the early abolition of extraterritoriality; and asserted that China, since 1903, had made considerable progress in improving the administration of justice, pointing to such evidence as the preparation of five new codes of laws, the establishment of new courts, the separation of civil and criminal cases, and improvements in the prison and police systems. No action, however, was taken by the conference.[4]

At the Washington Conference, Justice Wang Chung-hui asked on behalf of the Chinese delegation

> that the powers now represented at this conference agree to relinquish their extraterritorial rights in China at the end of a definite period. In the meanwhile, he proposed that the above-mentioned

[1] MacMurray, *op. cit.*, Vol. I, p. 351.

[2] *Ibid.*, p. 431, 414.

[3] *Ibid.*, p. 745.

[4] Willoughby, *op. cit.*, Vol. II, p. 670–672.

powers should, at a date to be agreed upon, designate representatives to enter into negotiations with China for the adoption of a plan for a progressive modification and ultimate abolition of the system of extraterritoriality in China, the carrying out of which plan was to be distributed over the above-mentioned period.[1]

The conference, however, felt that it would be desirable first of all to ascertain whether justice was administered in China in such a manner as to afford the powers and their nationals all necessary guaranties. As a result, it provided for the appointment of a commission on extraterritoriality, to visit China and "to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China."[2]

The commission met in China in January, 1926, and continued its investigation until September, when it drew up a report which was signed by all of the commissioners of the 13 powers represented on the commission: Belgium, the British Empire, China, Denmark, France, Italy, Japan, the Netherlands, Norway, Portugal, Spain, Sweden and the United States of America. The Chinese commissioner, however, signed with reservations.

The main point of the report is that conditions in China do not warrant the immediate abolition of extraterritoriality. The commission, however, makes clear the outstanding defects of the existing system: the multiplicity of the courts, the diversity of laws, the inaccessibility of many of the extraterritorial tribunals, the lack of satisfactory legal and judicial training of many of the consular judges, the difficulty of appeals to the home courts of foreign countries, the freedom of foreigners from Chinese regulations and the inviolability of foreign premises which makes them places of refuge for Chinese who are wanted by Chinese authorities. The commission speaks well of the progress already made by China in revising its judicial system: the new codes drawn up, the modern courts and

[1] *Conference on the Limitation of Armament*, p. 934–936.
[2] *Ibid.*, p. 1644.

prisons, and the specially trained judges. But it points out that much still remains to be done: essential codes and laws are lacking; the modern courts and trained judges are too few; the magistrate's courts and the police courts are unsatisfactory; the existing laws rest upon an uncertain legal and constitutional basis, being largely presidential proclamations; the courts and the judges are not independent, being frequently interfered with by executive officials and especially military commanders; and financial support for the courts is not adequate.

After indicating the steps which need to be taken to bring the Chinese judicial system to a proper standard, the report stated:

> The commissioners are of the opinion that, when these recommendations shall have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights of extraterritoriality.
>
> It is understood that, upon the relinquishment of extraterritoriality, the nationals of the powers concerned will enjoy freedom of residence and trade and civil rights in all parts of China in accordance and with the general practice in intercourse among nations and upon a fair and equitable basis.

The report continued:

> It is suggested that, prior to the reasonable compliance with all the recommendations above mentioned but after the principal items thereof have been carried out, the powers concerned, if so desired by the Chinese Government, might consider the abolition of extraterritoriality according to such progressive scheme (whether geographical, partial, or otherwise) as may be agreed upon.

The commission recommended also that, pending the abolition of extraterritoriality, the powers "should make certain modifications in the existing systems and practice of extraterritoriality." These would include, in addition to the development of necessary arrangements in regard to judicial assistance between the Chinese authorities and those of the extraterritorial powers, the following points:

The powers concerned should administer, so far as practicable, in their extraterritorial or consular courts such laws and regulations of China as they may deem it proper to adopt.

As a general rule mixed cases between nationals of the powers concerned as plaintiffs and persons under Chinese jurisdiction as defendants should be tried before the modern Chinese courts without the presence of a foreign assessor. . . With regard to the existing special mixed courts, their organization and procedure should, as far as the special conditions in the settlements and concessions warrant, be brought more into accord with the organization and procedure of the modern Chinese judicial system. . . .

The extraterritorial powers should correct certain abuses which have arisen through the extension of foreign protection to Chinese as well as to business and shipping interests the actual ownership of which is wholly or mainly Chinese. . . . [And should] require compulsory periodical registration of their nationals in China. . . .

Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.[1]

Since the report was published, neither China nor the powers have carried out completely the recommendations of the commission; but both have taken steps in that direction. China has been revising and codifying its laws; the new criminal code was promulgated on March 10, 1928, and the new code of criminal procedure, on July 28 of the same year; while the civil code and commercial code, necessary to complete the series, are now being drafted by the Legislative Yuan, and, the Nanking Government states, will be promulgated on or before January 1, 1930.[2] New courts have been established and

[1] *Report of the Commission on Extraterritoriality in China*, Peking, September 16, 1926. Washington. Government Printing Office. Recommendations, p. 107–109; for the declaration of the Chinese commissioner, see *China Year Book, 1928*, p. 447–456.

[2] See Annex II of preliminary treaty of amity and commerce with Italy and identic treaties with Belgium, Denmark, Portugal and Spain; also China's identic note to six powers concerning the abolition of extraterritoriality, April 27, 1929, *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 64.

additional judges appointed. The National Government is laying special emphasis upon legal education throughout the country; and, as Justice Wang Chung-hui has recently pointed out, is planning "ultimately to take the judicial power from the hands of the local magistrates and place it in the hands of those who are specially trained for performing judicial duties." [1]

The outstanding action of the powers in carrying out the recommendations of the commission has been the rendition of the mixed court in the International Settlement in Shanghai. This court was originally a Chinese institution for the trial of cases in which the defendants were Chinese or non-extraterritorial foreigners. A foreign assessor, or representative of one of the local consulates, was permitted to sit with the Chinese judge in cases in which an extraterritorial foreigner was plaintiff. In 1911, however, on account of the breakdown of local authority due to the revolution of that year, it seemed necessary to the Shanghai consular body to take over control of the court. The judges were still Chinese but they served under the authority of foreigners. The mixed court, therefore, functioned after 1911 without treaty sanction. For years the Chinese had demanded the return of the court to Chinese jurisdiction. Finally, on February 1, 1927, a provisional rendition was effected by an agreement,[2] made between the Shanghai consular body and the Kiangsu Provincial Government, which is to hold for three years. The court is now termed the Shanghai Provisional Court, and is under control of the Kiangsu province, although deputies of the consuls may still sit with the Chinese judges in cases in which the peace and order of the International Settlement is concerned, or in which a foreigner enjoying extraterritorial rights is plaintiff or complainant. Within this 3-year period, it is stipulated that the Chinese central Government and the foreign ministers may nego-

[1] Address, Dr. Wang Chung-hui, President of the Judicial Yuan, January 30, 1929, *Week in China*, February 16, 1929, Vol. XII, p. 125–130.

[2] This agreement had received the previous approval of the heads of legations accredited in China.

tiate for a final settlement.[1] Now that the court is again under Chinese authority, it is severely criticized by many of the foreigners in Shanghai on the ground that the judges are under political influence and the judicial standards are not adequately high.

The National Government at Nanking, with its victory in gaining tariff autonomy practically assured, increased its efforts in the late months of 1928 to induce the powers to abandon extraterritoriality. Its position was strengthened by the fact that several of the former treaty-powers had already lost these rights. Germany and Austria-Hungary had these privileges canceled by China when it declared war against the Central Powers in 1917. They recognized the loss by treaty: Germany by express provision of the Sino-German agreement of 1921;[2] Austria by implication by Art. 234 of the treaty of Saint-Germain, 1919, and by express provision of the Sino-Austrian treaty, October 19, 1925;[3] and Hungary by Art. 217 of the treaty of Trianon, 1920. Russia was deprived of its extraterritorial rights in 1920 by decree of the Chinese Government; and in the Sino-Soviet agreement of May 31, 1924, pledged itself to renounce them. The nationals of Austria, Germany, Hungary and Russia are therefore subject to the jurisdiction of Chinese courts. In the same situation are the nationals of most of the Latin-American republics, and of such European countries as Czechoslovakia, Estonia, Latvia, Lithuania, Poland, Rumania and Serb-Croat-Slovene State.[4] Two of the 16 states which are now en-

[1] *China Year Book, 1928*, p. 465–475; *Report of the Commission on Extraterritoriality in China*, p. 16; Willoughby, *op. cit.*, Vol. I, Chap. XXI; see further, *infra*, p. 31.

[2] The exchange of notes accompanying the Sino-German agreement of May 20, 1921, contained the important assurance: "All lawsuits in China in which Germans are involved will be decided before the newly-established courts, with right to appeal. These lawsuits will be conducted in accordance with the regular procedure. German barristers and interpreters, officially accredited to the courts, may act as counsel during the proceedings." League of Nations, *Treaty Series*, Vol. IX, p. 288; Hornbeck, *op. cit.*, p. 521. A similar provision is contained in Art. IV of the Sino-Austrian treaty of October 19, 1925.

[3] League of Nations, *Treaty Series*, Vol. LV, p. 21 (Art. IV).

[4] For the regulations of the Nationalist Government issued July 8, 1928, regarding the treatment of foreigners who do not now enjoy extraterritoriality, see Appendix.

titled to the rights of extraterritoriality,[1] Sweden and Switzerland, promised at the signing of their treaties with China in 1908 and 1918, respectively, to relinquish these rights as soon as the other powers should do so; and Mexico, in an exchange of notes with the Chinese Government, 1921, agreed to insert a clause in the formal amendment to the treaty of 1899 in which it would renounce its consular jurisdiction in China.[2]

A further and notable success in the effort to abolish extraterritoriality was achieved by the Chinese Government toward the close of 1928 by the negotiation of treaties with five powers, Belgium, Denmark, Italy, Portugal and Spain, in which, in addition to granting tariff autonomy, they renounced extraterritoriality in principle and promised to give up their extraterritorial rights when the other powers should do so.[3] The terms of the five treaties are similar and the articles of the last four are practically identic.

In Art. II of these treaties, the five powers renounce extraterritoriality in principle. This article reads in the Italian treaty which is identic — excepting only the names of the various powers — with the article in the Danish, Portugese and Spanish treaties:

> The nationals of each of the two high contracting parties shall be subject, in the territory of the other party, to the laws and jurisdiction of the law courts of that party, to which they shall have free and easy access for the enforcement and defense of their rights.

In Annex I of these four treaties by an exchange of notes, however, it is provided that Art. II

[1] For a list of these 16 states, see footnote, p. 20.

[2] *Report of the Commission on Extraterritoriality in China*, p. 10.

[3] These treaties were signed in the following order: Belgium, November 22; Italy, November 27; Denmark, December 12; Portugal, December 19; and Spain, December 27, 1928. For the text of the treaties, see *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 7–51, and Appendix, *infra*.

shall be understood to begin to be operative on January 1, 1930. Before such date the Chinese Government will make detailed arrangements with the Italian Government for the assumption by China of jurisdiction over Italian subjects. Failing such arrangements on the said date, Italian subjects shall be amenable to Chinese laws and jurisdiction from a date to be fixed by China, after having come to an agreement for the abolition of extraterritoriality with all the powers signatory of the Washington treaties, it being understood that such a date shall be applicable to all such powers.

By "powers signatory of the Washington treaties" shall be meant those powers, other than China, which directly participated in the discussion of Pacific and Far Eastern questions in the Conference on the Limitation of Armament held in Washington in 1921–1922.

In the Belgian treaty, this latter condition is worded somewhat differently: "Belgian subjects shall thereafter be amenable to Chinese laws and jurisdiction as soon as the majority of the powers now possessing extraterritorial privileges in China shall have agreed to relinquish them."

In additional annexes, China states "that on or before January 1, 1930, the Civil Code and the Commercial Code, in addition to other codes and laws now in force, will be duly promulgated by the National Government of the Republic of China;" and the five powers agree that their citizens in Chinese territory "shall hereafter pay such taxes or imposts as may be prescribed in the laws and regulations duly promulgated [by the Chinese Government], provided that such taxes or imposts are not other or higher than those paid by the nationals of any other country." [1] Further, China made the important declaration that, after the abolition of extraterritoriality and other similar privileges, the nationals of these five countries, on the basis of reciprocity, shall "enjoy the right to live and trade and to acquire property in any part of . . . China, subject to the limitations to be prescribed in its laws and regulations."

[1] Wording of the Danish, Portugese and Spanish treaties.

These treaties are of great importance in preparing the way for the abolition of extraterritoriality. The five powers renounce extraterritoriality in principle, and apparently look forward to the surrender of their extraterritorial privileges at an early date. But it is clear that the treaties obligate them no further than to give up these rights when eight or nine other powers shall take the same action. Denmark, Italy, Portugal and Spain are not required to surrender extraterritoriality until all of the eight Washington Conference powers, other than China, do the same; that is, until this action shall be taken by Belgium, the British Empire, France, Italy, Japan, the Netherlands, Portugal and the United States. Belgium is not obligated to surrender extraterritoriality until a majority of the powers now enjoying such rights do so; that is, until nine of the 16 treaty-powers shall take this action.

Following up the advantage gained by the negotiation of these five treaties, the Chinese Minister of Foreign Affairs, Dr. C. T. Wang, handed identic notes, dated April 27, 1929, to the American, British and French ministers, and similar notes at the same time to the Brazilian, Dutch and Norwegian legations, in which he expressed the desire of the Chinese Government for the abolition of extraterritorial privileges as soon as possible. The note reads in part:

> It goes without saying that extraterritoriality in China is a legacy of the old regime, which has not only ceased to be adaptable to the present-day conditions, but has become so detrimental to the smooth working of the judicial and administrative machinery of China that her progress as a member of the family of nations has been unnecessarily retarded. . . .
>
> With the close contact between China and the foreign powers, the assimilation of western legal conceptions by Chinese jurists and incorporation of western legal principles in Chinese jurisprudence have proceeded very rapidly. In addition to the numerous codes and laws now in force, the civil code and the commercial code have reached the final stage of preparation and will be ready for promulgation before January 1, 1930. Courts and prisons, along

modern lines, have been established, throughout the whole country. . . .

. . . It may be pointed out that certain countries, having ceased to enjoy extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese law and have had no cause for complaint that their interests have been in any way prejudiced.[1]

This communication was followed by another identic note from Minister C. T. Wang, May 8, to the American, British, Dutch and French ministers and the Brazilian and Norwegian chargé d'affaires, asking that the Shanghai Provisional Court should be placed under the direct and undivided control of the Chinese National Government. The note stated that notwithstanding the change effected on February 1, 1927,

the position of the new court is still anomalous and its system remains confusing, being different from that of the whole country. The inconveniences arising therefrom have caused much complaint and dissatisfaction on the part of the people.[2]

A few days after this official Chinese note was published, a statement was drawn up by the foreign Chambers of Commerce of the International Settlement, and sent to their various home Governments, in which they claimed that the Provisional Court had become a menace to the law and order of the Settlement, and urged the powers concerned not to relinquish their extraterritorial rights at the present time. The chief charge contained in the document was that the court had been used, since its rendition in 1927, as a department of the Government for the furtherance of political ends and not the ends of justice. To meet the situation the statement makes a plea for a municipal court to be under the Municipal Council of the International Settlement with jurisdiction over civil and

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 64; *Current History*, June, 1929, p. 538–539.

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 66.

criminal disputes arising within the International Settlement.[1]

In reply to the Chinese communication, the senior minister of the powers at Peiping sent to Minister Wang, June 7, 1929, a note on behalf of all the heads of the legations concerned, including not only the six to whom the note of May 8 was addressed, but also the diplomatic representatives of Belgium, Denmark, Italy, Japan, Portugal, Spain and Sweden. The note proposed that

> the question of the reorganization of the present court should be examined on behalf of the heads of the legations concerned by a commission chosen from among their local representatives together with representatives of the Chinese Government and that the conclusions thus arrived at should in due course be submitted to the several ministers and to the National Government of China. I am desired by my colleagues to add in this connection that the ministers concerned can not disguise from themselves the fact that certain unsatisfactory features in the functioning of the court under the said agreement of 1926 have been due to external political and administrative interference with its operation and that they regard it as essential that these external influences should be excluded in future.[2]

Minister Wang declined the proposal in an identic note of July 3 in which he stated that, "the said question is not of a local character and ought not to be left to local representatives to examine and discuss." He requested the ministers of the powers concerned to open negotiations immediately and directly with the Nanking ministry of foreign affairs.[2]

The Chinese authorities are clearly hopeful of an early abolition of extraterritoriality. The United States, however, and the other leading powers which still possess extraterritorial rights sent to China, August 10, official replies to Minister C. T. Wang's note of April 27, in which they declined to surrender their extraterritorial privileges com-

[1] *New York Times*, May 19, 1929.

[2] *Week in China*, July 27, 1929, Vol. XII, p. 582.

pletely at the present time. The notes have not at this writing — September 1 — been released for publication.

The real issue is not whether extraterritoriality is to be abandoned; all thoughtful persons are agreed upon that. Great Britain, Japan and the United States stated in treaties, as long ago as 1902 and 1903, that they would give up these rights when the condition of Chinese justice should warrant them in doing so. And the American Secretary of State, Frank B. Kellogg, said in a formal statement, January 27, 1927:

> The United States is prepared . . . to negotiate the release of extraterritorial rights as soon as China is prepared to provide protection by law and through her courts to American citizens, their rights and property.[1]

The issue is whether this situation long-foreseen has at length arrived. And if so, whether the rendition should be absolute and immediate or subject to safeguards and ad interim regulations.

Treaty Revision

The problem of extraterritoriality involves the legal issue of the continuing validity of many of the treaties made between China and the leading treaty-powers. The Chinese Government has made it clear by word and deed that it will sign no additional "unequal treaties" and will take every available opportunity to terminate existing treaties which grant such exceptional privileges as extraterritoriality. This situation naturally raises the question as to China's legal right to terminate certain of these treaties; and as to this there has been and still is a sharp difference of opinion between China and some of the treaty-powers.

These old treaties when originally signed normally contained an article providing that they should be valid for

[1] Hornbeck, *op. cit.*, p. 550.

a period of 10 years; that at the end of a 10-year period, under stipulated conditions, a revision of the treaty might be made; but that if no revision should be made, the treaty would be valid for another 10-year period, and so on from term to term. China has adopted the policy of forcing a revision of these treaties as they came to the close of a 10-year period, or of declaring them terminated. It is China's claim of a right to terminate them which has been an acute issue. These articles relating to revision are not uniform in the various treaties, and in some cases, according to the interpretation of certain foreign powers, state conditions which China is unwilling to accept.

The Belgian treaty furnished the first important test case. Since the Sino-Belgian treaty of November 2, 1865, came into force with the exchange of ratifications, October 27, 1866, a 10-year period came to an end October 27, 1926. The Chinese Government gave early notice to Belgium that it desired to terminate the treaty upon this date, and to negotiate a new agreement "on the basis of equality and reciprocity." Belgium was willing to make a new treaty, but after long negotiations the two Governments were unable to agree upon the conditions of ad interim regulations. China, therefore, by presidential decree, November 6, 1926, declared that the treaty having expired October 27, 1926, had ceased from that date to be binding. Belgium, however, relying upon its strict legal rights maintained that the old treaty was still in force since by its terms it could not be revised or terminated except upon the initiative of the Belgian Government. Art. 46 of the treaty of 1865 reads:

> Should the Government of His Majesty the King of the Belgians judge it necessary in the future to modify certain clauses of the present treaty, it shall be free to open negotiations to this end after an interval of 10 years from the date of the exchange of ratifications; but six months before the expiration of the 10-year period, it must officially inform the Government of His Majesty the Emperor of China of its intention to make such modifications and in what they consist. In the absence of this official announcement the treaty

shall remain in force without change for a new term of 10 years and so on from 10 years to 10 years.

Belgium informed the Chinese Government that it intended to submit to the Permanent Court of International Justice their dispute regarding the interpretation of this article, since both Governments had accepted the "optional clause" of the Statute of the Court, which bound them to refer to the jurisdiction of the Court legal issues involving "the interpretation of a treaty." The Statute of the Court also provided that:

> In the event of a dispute as to whether the Court has jurisdiction in these cases, the matter shall be decided by a decision of the Court.

The Chinese Government refused to participate in the submission of this issue, on the ground that it was essentially political and not legal in character. In the words of the Chinese note of November 16, 1926:

> The real question at bottom is that of the application of the principle of equality of treatment in the relations between China and Belgium. It is political in character and no nation can consent to the basic principle of equality between states being made the subject of a judicial inquiry. . . . Consequently, if an appeal is to be made to an international tribunal at all, the Chinese Government believe that it should be brought before the Assembly of the League by virtue of Art. 11 (and 19) of the Covenant.[1]

The Belgian Government, however, in accordance with its legal rights under the Statute of the Court, filed a unilateral application, November 26, 1926, asking the Court to

[1] For Sino-Belgian treaty revision to January 1, 1928, see *China Year Book, 1928*, p. 766-786.

Article 19 of the Covenant of the League of Nations reads:

"The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world."

Article 11 of the Covenant reads in part:

"It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."

give judgment that the Chinese Government was not entitled to denounce the treaty, and requesting the Court, pending such judgment, to order provisional measures to be taken by China for the preservation of Belgian rights and nationals in that country. The Court did make an order, January 8, 1927, decreeing the measures of protection to which Belgium was provisionally entitled. But negotiations were resumed and Belgium, therefore, in accord with the wishes of China asked that the order be revoked, to which the Court agreed. No decision was rendered upon the main issue, whether China was legally justified in terminating the treaty of 1865. Belgium seemed satisfied to keep the question pending during the continuance of treaty negotiations. But after the ratification of the Sino-Belgian treaty of November 22, 1928, the Belgian Government informed the Court that it intended to break off the action which it had instituted against China; and the Court in consequence declared, May 25, that the proceedings were terminated.[1]

A number of treaties which definitely grant extraterritorial rights to other powers contain the provision that at the end of 10-year periods a revision may be asked for "of the tariff or the commercial articles of this treaty." Such an article appears in the treaties with Spain of October 10, 1864; Portugal, December 1, 1887; Italy, October 26, 1866, and Denmark, July 13, 1863. The wording of the article in the Spanish treaty, which is similar to the others, reads:

> Art. XXIII. Either of the two high contracting parties may at the end of ten years ask for a revision of the tariff or the commercial articles of this treaty, with the understanding that if such request be not made within six months, reckoned after the first 10 years, the said tariff will continue to be in force for 10 years longer, reckoned in addition to the preceding 10 years, and so on every 10 years.[2]

[1] Publications of the Permanent Court of International Justice, Series A, Nos. 8, 14, 16, 18. A partial summary is in Manley O. Hudson, *The World Court, 1922–1929*, p. 33–35.

[2] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. II, p. 382.

On the basis of this and similar articles the Chinese Government during the two years, 1926–1928, terminated these four treaties in their entirety as from the expiration of the decennial periods.[1] The four powers protested against the legality of this action; insisted that the treaties were still in force, and maintained that, while they were quite willing to undertake negotiations for new treaties, the Chinese Government had no authority to terminate the treaties as a whole and were entitled only to ask for a revision of the articles dealing with the tariff and commerce.[2] No decision was reached on this legal issue of treaty interpretation, since Denmark, Italy, Portugal and Spain, as well as Belgium, signed new treaties with China in November and December, 1928. It is to be noted that the only treaty-powers which have negotiated new agreements with China dealing with both the tariff and extraterritoriality are these powers whose treaties China has declared terminated.

Japan's most important treaty with China furnishes still further complications. It was signed July 21, 1896, and ratifications were exchanged the following October 20. It reached a 10-year period, therefore, October 20, 1926. China asked for a complete revision of the treaty but by mutual agreement with Japan continued it in force for short periods until July 19, 1928, when the National Government announced the termination of the treaty as of July 20. Art. XXVI which deals with revision reads:

> It is agreed that either of the high contracting parties may demand a revision of the tariffs and of the commercial articles of this treaty at the end of 10 years from the date of the exchange of the ratifications; but if no such demand be made on either side and no such revision be effected, within six months after the end of the first 10 years, then the treaty and tariffs in their present

[1] In some cases the action was taken by the Peking Government; in others, by Nanking.

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1928, Vol. XII, p. 1 *ff*; July, 1928, Vol. XII, p. 64; October, 1928, Vol. XII, p. 72–76; *China Year Book, 1928*, p. 1402–1405.

form shall remain in force for 10 years more, reckoned from the end of the preceding 10 years, and so it shall be at the end of each successive period of 10 years.[1]

This article not only appears to limit the right of revision to the tariff and the commercial articles but is open to the interpretation that a proposed revision, to be effective, must be completed within six months after the close of the 10-year period. The treaty is of great importance to Japan since it contains grants of extraterritoriality and the most-favored-nation treatment. Japan replied to the Chinese note, July 31, 1928, in part as follows:

There is no stipulation providing for the abrogation or expiration of the treaty. It is natural, therefore, that the treaty can neither be abrogated nor terminated without special mutual consent or agreement between both contracting parties. Further, as it is expressly stipulated in the provisions of the same article that if the negotiations for the revision were not completed within six months, then the treaty and tariffs should remain in force for 10 years more, it admits of no doubt that the treaty and tariffs should remain in force for another 10 years. . . .

The treaties[2] and the accompanying documents being, for the above reasons, still in force . . . if the Nationalist Government should persistently attempt to enforce the so-called "provisional regulations" unilaterally, the Japanese Government declare hereby that they may be obliged to take such measures as they deem suitable for safeguarding their rights and interests assured by the treaties.[3]

This dispute as to the termination or the continuing validity of the Sino-Japanese treaty became involved with

[1] MacMurray, *op. cit.*, Vol. I, p. 73.

[2] The treaty of 1896 was supplemented by one signed in 1903.

[3] *Chinese Social and Political Science Review*, Public Documents Supplement, October, 1928, Vol. XII, p. 73. For China's reply of August 14, see *Week in China*, September 1, 1928, Vol. XII, p. 3–5. For earlier negotiations, see *China Year Book, 1928*, p. 786–788. For a defense of the Chinese position, see *Chinese Affairs* (issued by the International Relations Committee, Shanghai) August 11, 1928, p. 2.

other issues between the two countries and has remained unsettled up to the present time.[1]

In its efforts to do away with the unequal treaties, China has relied not only upon the terms of the treaties themselves, but also upon the general principle in international law known as *rebus sic stantibus* (conditions remaining as they are), in accordance with which fundamental changes in the implied conditions under which treaties were signed render them voidable. It is admitted by legal publicists, however, that this principle is dangerously elastic. Fenwick, in his recent *International Law*, says:

> The most difficult problem presented by international treaties, and the one in respect to which the fundamental law of the faith of treaties has been put to its crucial test, is the question whether a state is released from its treaty obligations by reason of an essential change of the circumstances under which the treaty was concluded. On this point international law gives but a vague and unsatisfactory answer. Publicists would appear to be correct in stating as a rule of positive law the general principle that all international contracts are entered into under certain implied conditions. . . . Every contract, according to Roman law, carries with it the implication, *rebus sic stantibus*. But when this is said, it remains to determine what are the implied conditions attending the making of a treaty. It is conceded that one of these conditions is that the treaty be faithfully observed on both sides.[2]

The Chinese have frequently referred to the clause *rebus sic stantibus* in their diplomatic correspondence during the past two or three years. A good statement of the Chinese view of this legal principle was given in an address, January 30, 1929, by Dr. Wang Chung-hui, President of the Judicial Yuan of the National Government and

[1] Additional notes, April 26 and 27, 1929, were exchanged between Japan and China without essentially modifying the position previously taken by each; but the two Governments agreed to continue their negotiations for a new treaty. See *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 59.

[2] Fenwick, Charles G., *International Law*, p. 344–345.

a Deputy-Judge on the Permanent Court of International Justice at The Hague:

The extraterritoriality régime is destined to go for many reasons. In the first place, its existence impairs China's sovereignty and can no longer be tolerated by the Chinese people. In the second place, according to the well-known principle of international law, *rebus sic stantibus*, changed conditions demand treaty revisions. This view is strengthened by Art. 19 of the covenant of the League of Nations which reads as follows:

"The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable, and the reconsideration of international conditions whose continuance might endanger the peace of the world."

Some 80 years ago when the system of extraterritoriality was introduced there was only a very small number of foreigners in China. They confined their residence and activities in a few treaty-ports. To-day their number is greatly increased and they scatter themselves outside of the treaty-ports. Eighty years ago Chinese law was radically different from Western law. To-day our law is modelled after the Western system. The economic changes during the extraterritorial period of some 80 years have brought about fundamental changes in the relation between the Chinese people and foreigners in China. Extraterritoriality, as a *modus vivendi*, aimed at producing good relations between the Chinese and foreigners in China. To-day it is bound to produce harmful consequences contrary to its original aim.[1]

The Japanese view of the principle of *rebus sic stantibus* in its application to their treaty with China is presented in their recent note of April 26, 1929:

But not only is the so-called principle of altered circumstances incapable of being regarded as an established rule of law in international relations, but the admission of such a principle would render almost all treaties liable to repudiation at the pleasure of either of the contracting parties, thus shaking the very foundations of international law. Nor is there any precedent where such a principle has ever had actual application. That there exists a specific provision concerning the validity of the treaty shows,

[1] *Week in China*, February 16, 1929, Vol. XII, p. 128–129.

not that the possibility of circumstances being altered in the future was not taken into consideration, but that care was taken that no such alteration of circumstances should of itself render the treaty null and void.[1]

The British Government makes certain statements, which may have a bearing upon the principle of *rebus sic stantibus*, in its memorandum, December 18, 1926, addressed to the Washington treaty-powers:

> While calling upon China to maintain that respect for the sanctity of treaties which is the primary obligation common to all civilized states, the powers should yet recognize both the essential justice of the Chinese claim for treaty revision and the difficulty under present conditions of negotiating new treaties in place of the old, and they should therefore modify their traditional attitude of rigid insistence on the strict letter of treaty rights. . . .
>
> The basic facts of the present situation are that the treaties are now admittedly in many respects out of date. . . .
>
> His Majesty's Government attach the greatest importance to the sanctity of treaties, but they believe that this principle may best be maintained by a sympathetic adjustment of treaty rights to the equitable claims of the Chinese.[2]

The Chinese Government has already obtained marked success in its efforts to terminate the old unequal treaties and negotiate new agreements "on the basis of complete equality and mutual respect for each other's sovereignty." New general treaties in accord with this principle have been signed with Austria (1925), Bolivia (1919), Finland (1926), Germany (1921 and 1928), Persia (1920), Poland (1928) and Russia (1924). Eleven treaties granting tariff autonomy to China were signed in 1928, as has already been pointed out, five of which renounce extraterritoriality in principle.[3] These five treaties, with Belgium, Denmark, Italy, Portugal and Spain, all contain in addition an article

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 60.

[2] *China Year Book, 1928*, p. 757–759.

[3] See footnote *supra*, p. 28.

which is identic for the last four treaties and similar in the Belgian treaty, which reads:

> The two high contracting parties have decided to enter as soon as possible into negotiations for the purpose of concluding a treaty of commerce and navigation based on the principles of absolute equality and nondiscrimination in their commercial relations and mutual respect for sovereignty.[1]

The next step for the Chinese Government will be to attempt to negotiate new treaties with the four powers whose interests in China are greatest — Great Britain, France, Japan and the United States — by which they will relinquish immediately or progressively the remaining exceptional rights which they now enjoy in China. Japan's attitude on this issue has already been presented. As for Great Britain, two of its important treaties with China come to an end of 10-year periods in 1930 and 1933 respectively: the treaty of Tientsin of June 26, 1858, on October 24, 1930; and the Sino-British commercial treaty of September 5, 1902, on July 28, 1933. The treaty of Tientsin which grants extraterritorial rights contains an article regarding revision, which as in the Danish, Italian, Spanish and Portuguese treaties already described, may be interpreted to limit the revision to the tariff and the commercial articles:

> It is agreed that either of the high contracting parties to this treaty may demand a further revision of the tariff and of the commercial articles of this treaty at the end of 10 years, but if no demand be made on either side within six months after the end of the first 10 years, then the tariff shall remain in force for 10 years more, reckoned from the end of the preceding 10 years; and so it shall be, at the end of each successive 10 years.[2]

The commercial treaty of 1902 has a similar article, which provides only for "a revision of the tariff at the end of 10

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 10, 14, 18, 23, 48.

[2] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 412.

years." [1] From the strictly legal point of view, therefore, a difference of interpretation may develop between China and Great Britain regarding the right to terminate either treaty in its entirety at the end of a 10-year period similar to the difference which developed between China and the four treaty-powers, Denmark, Italy, Portugal and Spain.

The first American treaty to come to a 10-year period is the Sino-American treaty for the extension of commercial relations, which was signed October 8, 1903, and is subject to revision January 13, 1934. Art. XVII on revision provides that "the tariff and the articles of this convention" may be revised; that is, the entire treaty.[2] This treaty contains many valuable provisions, particularly regarding trade and commerce, but it includes no especial grant of extraterritoriality. Such grants were made in earlier treaties and would not be affected by the termination of this treaty of 1903, which states in Art. XVII:

> It is agreed . . . that all the provisions of the several treaties between the United States and China which were in force on the 1st day of January, 1900, are continued in full force and effect, except in so far as they are modified by the present treaty or other treaties to which the United States is a party.[3]

The treaty of Wanghia, July 3, 1844, provides that after 12 years "inconsiderable modifications" may be made "in those parts which relate to commerce and navigation." [4] The Sino-American treaties of Tientsin, June 18, 1858, and the supplementary treaty of Peking, November 17, 1880, both include specific grants of extraterritoriality, yet appear to be permanent, for they contain no provision for revision.[5]

The United States, therefore, may claim that upon the

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 558.

[2] MacMurray, *op. cit.*, Vol. I, p. 431; Malloy, William M., *op. cit.*, Vol. I, p. 261.

[3] Malloy, *op. cit.*, Vol. I, p. 196, 261.

[4] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 690; Malloy, *op. cit.*, Vol. I, p. 196.

[5] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 713, 736; Malloy, *op. cit.*, Vol. I, p. 211, 239.

basis of a strict interpretation of its treaty rights it cannot legally be deprived of its extraterritorial privileges without its own consent.

The general Sino-French treaty of Whampoa, October 24, 1844, and of Tientsin, June 27, 1858, grant extraterritorial rights, but as to revision contain only the stipulation that after 12 years "the Government of the Emperor of the French" may undertake negotiations for modification of the various provisions. From a legal point of view these French treaties would appear to be in the same situation so far as the right of revision is concerned as was the Sino-Belgian treaty of 1865, which has already been described.[1]

Concessions and Settlements

The next most important issue between China and the powers relates to "concessions" and "settlements," that is, to sections of Chinese cities which are administered by foreigners. China demands that these be returned to complete Chinese control.

These concessions and settlements are situated in nine of the so-called treaty-ports, places opened by treaty to foreign residence and trade. In certain of these cities, such as Tientsin and Hankow, there are two or more concessions, each controlled by a different power. The present total number of concessions in China is 16.[2] In addition,

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 789, 834. For a table showing the status of China's treaties with various foreign powers prepared by the Treaty Revision Committee of the Ministry of Foreign Affairs of the National Government, see *Week in China*, November 24, 1928, Vol. XII, p. 6–8.

[2] PRESENT CONCESSIONS

Great Britain	*Japan*	*France*	*Italy*	*Belgium*
Amoy	Amoy	Canton	Tientsin	Tientsin
Canton	Hankow	Hankow		
Tientsin	Tientsin	Tientsin		
Chinkiang	Hangchow	Shanghai		
Newchwang	Soochow			

FORMER CONCESSIONS RECOVERED BY CHINA

Germany	*Russia*	*Great Britain*	*Austria-Hungary*
Tientsin (1917)	Tientsin (1920)	Hankow (1927)	Tientsin (1917)
Hankow (1917)	Hankow (1920)	Kiukiang (1927)	

See Hornbeck, *op. cit.*, p. 469; *China Year Book, 1928*, p. 1079–1083; 915–930; Morse, *op. cit.*, Chap. VIII; Bau, M. J., *China and World Peace*, p. 110.

there are settlements which are under foreign administration, the most important being the well-known International Settlement at Shanghai.

There is only a slight difference between a concession and a settlement. In the former the land is leased to a foreign power which pays a land tax to the Chinese Government and through its local consul subleases parcels of the land to foreign nationals. In a settlement the individual leaseholders acquire their land directly from the Chinese authorities.

In some treaty-ports foreigners in general reside in a foreign quarter where they carry on many of the functions of a municipality, but possess no official status as a self-governing administrative body. These areas are not concessions and although they are sometimes termed settlements they are not under the exclusive control of foreigners, and form no essential part of the issue between the treaty-powers and China.[1]

The origin of concessions and settlements dates back to the treaty of Nanking, 1842, which opened five ports of China to foreign trade and residence; and to the supplementary treaty, 1843, which provided that certain areas in these ports should be set aside for foreign grounds and houses. The right of local self-government rests upon "land regulations" issued by the consuls with the consent, expressed or implied, of the Chinese authorities. From a strictly legal point of view, however, it is difficult to find sufficient authority for the exercise by the foreigners of municipal self-government, since the rules and regulations of the concessions and settlements were in most cases not issued by the direct authority of the sovereign state. But the exercise of these municipal rights was

[1] Morse, *op. cit.*, p. 221. For an instance of express provision that certain treaty ports are not to contain foreign administrations, see Sec. 12 of Art. VIII of the Sino-British treaty of 1902 (MacMurray, *op. cit.*, Vol. I, p. 349): "Foreigners residing in these open ports are to observe the municipal and police regulations on the same footing as Chinese residents, and they are not to be entitled to establish municipalities and police of their own within the limits of these treaty ports except with the consent of the Chinese authorities."

carried on for some decades, practically unchallenged by the Chinese Government.[1]

These concessions and settlements are semi-independent municipalities, under the sovereignty but not under the control of China. They are much like American cities, except that they have no political relations with the state in which they are situated. Their control extends over police, roads, buildings, sanitation and taxes. While they may issue municipal regulations they do not have courts of their own, but must depend upon Chinese mixed courts and consular and other foreign tribunals. They maintain their neutrality in time of civil war, and are regarded as legal asylums for political refugees from other parts of China. The form of government varies: many of the concessions are under the sole administration of the consul of the power to which the concession has been granted; in others the consul is assisted by a council, nominated or elected; while in the notable International Settlement at Shanghai the authority is vested in a Municipal Council now elected by both foreign and Chinese rate payers. The Legation Quarter at Peking, which by the Boxer protocol of 1901 was placed under the "exclusive control" of the legations, is administered by a commission appointed by the resident diplomatic representatives.

With their rising nationalism the feeling became intensified among the Chinese that these foreign-administered areas should be returned to Chinese control. Their point of view was expressed with moderation by the Chinese delegation at the Paris Peace Conference in 1919. They stated that the foreign jurisdiction over these concessions had "impaired the sovereignty of China and hampered her work of administration," and said further in part:

When the country was first opened to foreign intercourse, the people were unaccustomed to associate with foreign nationals, and it was, therefore, deemed expedient to assign separate districts for

[1] Willoughby, *op. cit.*, Vol. I, p. 501; Hudson, Manley O., "International Problems at Shanghai," *Foreign Affairs*, October, 1927, Vol. VI, p. 75–88.

the use of the foreign merchants; and as these districts were undeveloped sections of the Chinese cities, it was desirable to organize some system of local government for the maintenance of public order and morals within the foreign communities. . . .

That whatever necessity there was for separate residence has entirely ceased to prevail appears clear from the fact that in such treaty-ports as Nanking and Changsha, where no foreign concessions exist, Chinese and foreigners live together in peace and friendship. . . .

Besides, China has in recent years made great progress in municipal government and believes herself prepared to assume the responsibilities for effective administration which will necessarily be implied in the desired restoration of the foreign concessions and settlements.[1]

The Chinese delegation therefore asked the powers concerned to enter upon negotiations for the restoration of these areas, the actual transfer to take place five years after the agreements had been effected. In the meantime China asked for certain immediate modifications of the existing régime:

1. That Chinese citizens shall have the right to own land in all the concessions and settlements under the same conditions as foreigners;
2. That Chinese citizens residing in the concessions shall have the right to vote in the election of members of the municipal councils and to be elected thereto;
3. That warrants issued and judgments delivered by competent Chinese courts outside the concessions shall be executed in the concessions without being subject to any revision whatsoever by the foreign authorities;
4. That in no foreign concession shall a foreign assessor be allowed to take part in the trial or decision of cases wherein Chinese citizens alone are concerned.[2]

The unfortunate incident of May 30, 1925, in the International Settlement at Shanghai, followed by somewhat

[1] Willoughby, *op. cit.*, Vol. I, p. 524–526.
[2] *Ibid.*, p. 527.

similar events in other cities greatly intensified both the desire and the determination of the Chinese to win back full control over these concessions and settlements.

They have had striking success in their efforts to regain these areas. Already they have secured the return of seven former concessions and appear well on the way to obtain two more. When China declared war on the Central Powers, it took over the German concessions in Tientsin and Hankow and the Austro-Hungarian concession in Tientsin; and these seizures were recognized as valid by the treaty of Versailles, 1919, and the Sino-German treaty of 1921, and by the treaty of Saint Germain-en-Laye, 1919. Further, when China terminated all relations with the old Tsarist régime, September 23, 1920, it took over the important Russian concessions in Tientsin and Hankow; and in the Sino-Soviet agreement of May 31, 1924, Russia recognized the new status of these former municipal areas. More recently, in the early part of 1927, influenced largely by the anti-foreign disturbances in the Yangtze, the Governments of Great Britain and China (Hankow) arranged by the Chen-O'Malley agreements, February 19 and March 2, to hand over to Chinese control the British concessions in Hankow and Kiukiang. The latter was retroceded without conditions, but a long detailed agreement was made for the future administration of the British concession area in Hankow.[1]

The two additional concessions which seem well on the way to a formal retrocession are the Belgian and the British areas in Tientsin. As early as January 17, 1927, the Belgian Minister at Peking informed the Chinese Government that Belgium was willing to retrocede its concession; but troublesome financial issues arose and the two Governments have not yet completed the details of the transfer. The British Government has also expressed its willingness to negotiate for the retrocession of its Tientsin concession. A draft agreement for this purpose

[1] *China Year Book, 1928*, p. 737–748.

was drawn up and initialed by the British and Chinese delegates, but the final detailed agreement has not yet been signed.[1]

In the International Settlement at Shanghai the Chinese have gained genuine participation in the municipal government. Shanghai is one of the great cities of the world with a total population of some 2,708,642, of whom 49,787 are foreigners. Of its several distinct municipalities, two are foreign, the French concession and the International Settlement. The latter has a population of over 842,226 Chinese and over 29,947 foreigners.[2] The Settlement was originally an area set apart for foreign residence, from which Chinese were excluded; but after they were admitted they came in large numbers, especially during the disturbances of the Taiping Rebellion in the middle of the past century. The government is now vested in a Municipal Council of 12, of whom nine are elected annually by the substantial foreign rate payers who number less than 3,000. The three Chinese members are elected separately by their own nationals. The present Municipal Council is composed of five British, three Chinese, two Americans and two Japanese. It performs very efficiently all the normal duties of the government of a great city except the supervision of courts; it has charge of police, schools, hospitals, streets, water works, parks, lighting and electrical power plants, gas works and a municipal band and orchestra. In its Volunteer Corps, often used for the protection of the Settlement during civil wars, it has a force resembling a local army. The Municipal Council is theoretically subordinate to the local consuls of the foreign powers, who in turn are under the authority of the ministers of their countries in Peking or Nanking and of their home Governments. But in its normal operations the

[1] *China Year Book, 1928*, p. 761, note; p. 915, note. For some years the Chinese have been represented on the Municipal Council of the concession; recently the British offered the Chinese the privilege of choosing half of the Council members. (*Week in China*, June 29, 1929, Vol. XII, p. 520.)

[2] Shanghai, *Municipal Gazette*, quoted in *China Weekly Review*, June 15, 1929

Council acts in large measure independently of both consuls and the diplomatic body.[1]

In the government of the International Settlement the Chinese, until recently, had no share. For some years they urged that they should be given representation on the Council; and their demands were sharpened and intensified in consequence of the May 30 affair.[2] They based their claims upon the fact that they composed about 96% of the population of the Settlement and paid the greater part of the taxes. They objected, also, to alleged encroachments by the Municipal Council upon China's sovereign rights and to discriminations against Chinese, such as the exclusion of Chinese from the public parks. Under these circumstances, the foreign rate payers voted in April, 1926, in favor of granting the Chinese the right of appointing three of their nationals to the Municipal Council which then consisted of nine members.[3] But this offer was for some two years refused by the Chinese who insisted upon at least equal representation with the foreigners. Finally, March 26, 1928, a compromise was effected by which three Chinese were to be elected to the Council, and six additional Chinese appointed on various committees of the Settlement. This arrangement gave the Chinese nine members in the government, the number for which they had been contending, and yet left the Council under foreign control. The Chinese elected their three Council members, April 10, and the agreement was put into effect.[4]

This arrangement is admittedly only a temporary compromise. The Chinese Association in its note accepting this solution definitely stated that it "still considers the number of seats for Chinese on the Council should be determined by the amount of taxes paid into the municipal

[1] Hudson, Manley O., "International Problems at Shanghai," *Foreign Affairs*, October, 1927, Vol. VI, No. 1, p. 75–88; Willoughby, *op. cit.*, Vol. I, Chap. XX; Kotenev, A. M., *Shanghai: Its Municipality and the Chinese*, passim.

[2] For the Chinese demands at that time, see *China Year Book, 1926*, p. 934–936; see also summary of report of Judge Finley Johnson on the causes of the May 30 affair, *ibid.*, p. 946–947.

[3] *China Year Book, 1928*, p. 1226–1228.

[4] *New York Times*, April 11 and 19, 1928.

treasury . . . and regards this arrangement as an interim arrangement only, and considers that an increase of six in the number of seats on the Council itself should be effected in the shortest possible time." The Municipal Council in reply stated that "the proposed arrangement will, in the ordinary course of events, lead to an increase in the number of Chinese members of the Council." The Municipal Council, therefore, has practically promised to give the Chinese more than three Council members in the near future, but does not agree to make the Chinese and the foreign representation equal.[1]

Additional measures were taken by the Municipal Council to meet the wishes of the Chinese. On February 1, 1927, the Mixed Court was handed back, under prescribed conditions, to Chinese control, and termed the Shanghai Provisional Court. On June 1, 1928, the principal parks in the International Settlement were thrown open to Chinese on the same terms as to foreigners.[2]

But these successes naturally do not satisfy the Chinese. They are aiming at the return to Chinese control of the remaining concessions and settlements as well as of all foreign-administered areas. In Shanghai an insistent demand is being made that the Provisional Court shall be placed without conditions under Chinese jurisdiction. In Peiping the claim is being advanced with increasing frequency that the Legation Quarter should be taken from the administration of the diplomatic corps and made a part of the regular Chinese municipality. In January, 1929, the Chinese mayor of Peiping declared that the status of the Legation Quarter must be changed since conditions were different from those of the days of the Boxer protocol, when the powers "forced upon China this and other unequal agreements;" he also petitioned the National Government, it is stated, to open negotiations with foreign powers on this subject. In the following month, a strike of the Chinese police caused renewed dis-

[1] For the text of the notes see *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1928, Vol. XII, p. 42–46.

[2] *New York Times*, April 19, 1928.

cussion of the rendition of the quarter to Chinese jurisdiction.[1]

There are still 16 concessions under foreign administration in nine different cities of China, and in addition the great International Settlement in Shanghai. Before long the Chinese will demand with increasing earnestness that these foreign municipal areas be returned to Chinese control.

Foreigners in China are in general opposed to these nationalistic demands of the Chinese; they believe that the immediate transfer of these districts to unrestricted Chinese control would be both unjust and unwise. It would be unjust since it is the foreigners, they insist, who are responsible for the success of these concessions and settlements and for maintaining honest and efficient administration. It would be unwise since a transfer to Chinese control would mean a lowering of standards in all the departments necessary in a good municipal government. In support of their contention there is sometimes quoted a part of an address delivered by Marshal Sun Chuan-fang before the Chinese General Chamber of Commerce in Shanghai, May 5, 1926:

> Whenever I come to a treaty-port I feel thoroughly humiliated, not only because a treaty-port is a standing reminder of our loss of sovereignty, but also because when we pass from the concessions into Chinese territory we feel that we are crossing into a different world — the former is the upper and the latter is the underworld, for nothing in the Chinese territory — roads, buildings, or public health — can be compared with the concessions. This is the greatest of our national humiliations, much greater in my opinion than the loss of sovereignty.
>
> In recent years the people of China have gradually acquired a national consciousness and with one voice have demanded the rendition of concessions and the abolition of unequal treaties, but "empty-mouthed" demands are useless. If we want to have the concessions abolished we must make the necessary preparations, otherwise even if the powers hand over the concessions to us at once, we shall find ourselves utterly unprepared to receive them.

[1] *New York Times*, January 19, 1929; *Week in China*, February 23, 1929, Vol. XII, p. 152; *Pacific Affairs*, March, 1929, No. 3, p. 131.

One of the objects of establishing the Directorate of the Port of Shanghai and Woosung is to try to accomplish some real results to show our foreign friends and to start our general preparation for the eventual return of the concessions.[1]

Foreigners also point to the administration of the concessions which have been turned over to the Chinese as further evidence of the correctness of their point of view. Each of these former foreign-controlled areas was changed into a "Special Administrative District" with a form of government designed to continue the participation of the foreigners and to exclude local Chinese political control. Each "district" was to be under a director appointed by the Chinese National Government, who was to be advised by a council, part foreign and part Chinese. In the agreement for the Government of the former British concession at Hankow, it was definitely stipulated that the Council should consist of the Chinese director as chairman, and of six additional members, three Chinese and three British. There was considerable complaint from both foreign diplomats and traders regarding this new form of administration.

The situation in the former British concession at Hankow, known as "Special Administrative District No. 3," was particularly unfortunate the first year after its transfer to Chinese control, probably due in large part to the civil war and the disturbed political conditions. There were frequent changes in the Chinese director and serious financial difficulties. But although conditions of administration during the past year have improved, they appear to be far from satisfactory. As recently as the early months of 1929 it was charged that the Chinese military officers and other government officials were frequently interfering with the director of the district, and issuing orders to him, contrary to the Chen-O'Malley agreement. After frequent complaints by the British minister, the Chinese minister of foreign affairs at Nanking promised to issue instruction that there must be no outside inter-

[1] *China Year Book, 1926*, p. 1012.

ference with the administration of the former British concession.[1]

The recent incorporation into the regular Chinese municipality of Hankow of the Special Administrative Districts which were formerly German and Russian concessions has caused considerable apprehension among the foreign groups. In the British House of Commons, Sir Austen Chamberlain said, February 20, 1929, "The question of the cancellation of the constitutions of these districts is being taken up with the National Government by His Majesty's minister, who is stating the objections to the retrograde step taken by the Wuhan authorities and urging reconsideration thereof, with the idea of preserving some form of foreign representation in the administration." [2]

In support of the Chinese, however, it should be stated that their administration of the former Russian section of Harbin, which has been taken over by the local Chinese authorities, seems to be a decided improvement over the previous Russian régime. This was the general view of the foreigners in Harbin as stated to the writer in December, 1927.

Upon the whole it appears to be the judgment of the fairminded foreigners in China that the new Chinese régime in the former concessions has not maintained the standard of government established under the old administrations. But it may be, also, as an American scholar has recently stated, "that the record of Chinese administration, while far from perfect, is better than many foreigners who have lived in China would have anticipated."[3]

The official attitude of the British Government, notwithstanding its apparent disappointment over some of the developments in its former concessions, seems to be

[1] "Great Britain and the Pacific," *Pacific Affairs*, May, 1929, Vol. V, p. 254–256.

[2] Great Britain, *Parliamentary Debates*, Vol. 225, col. 1097.

[3] Harold S. Quigley, "Foreign Concessions in Chinese Hands," *Foreign Affairs*, October, 1928, Vol. VII, p. 150–151. For recent British opinion, see "Great Britain and the Pacific," *Pacific Affairs*, May, 1929, Vol. V, p. 250–281. For a favorable view of the Chinese administration of the former concessions in Hankow, see Chapman, H. O., *The Chinese Revolution*, 1926–1927, p. 151–152.

unchanged from the early part of 1927, when in a note to the Hankow Government, January 27, it stated:

> His Majesty's Government are prepared to discuss and enter into arrangements, according to the particular circumstances at each port concerned, for the modification of the municipal administrations of British concessions so as to bring them into line with the administrations of the special Chinese administrations set up in former concessions at Hankow, or for their amalgamation with neighboring concessions, or former concessions now under Chinese control, or for the transfer of police control of the concession areas to the Chinese authorities.[1]

The United States has no concessions in China, but maintains that it has an interest in the International Settlement. Secretary of State Kellogg in a note of February 7, 1927, after proposing that the International Settlement should "be excluded from the area of armed conflict so that American citizens and other foreigners may receive adequate protection," added, "the American Government will be ready for its part to become a party to friendly and orderly negotiations properly instituted and conducted regarding the future status of the Settlement."[2]

Other Unequal Privileges

In addition to the rights which the foreigners have enjoyed in China in regard to the tariff, extraterritoriality, and concessions and settlements, they still have other exceptional privileges which the Chinese are resolved to terminate. These relate to leased territories, foreign military and naval forces within China, inland navigation, missionary status, railroad concessions and foreign financial supervision.

Leaseholds

At the Washington Conference, Dr. V. K. Wellington Koo said "the Chinese delegation believed that the time had come for the interested powers to relinquish their

[1] Toynbee, *op. cit.*, 1926, p. 495; *China Year Book, 1928*, p. 761.

[2] Hornbeck, *op. cit.*, p. 555.

control over the territories leased to them."[1] China has already obtained a measure of success in its effort to regain these long-term leaseholds. The territory of Kiao-chou in the province of Shantung which was leased to Germany for 99 years in 1898 and later transferred to Japan at the Paris Conference in 1919, was formally returned to China by Japan in accordance with the terms of a Sino-Japanese agreement signed in connection with the Washington Conference, 1922.[2]

Weihaiwei, situated in the northern part of Shantung, was leased to Great Britain in 1898 "for so long a period as Port Arthur shall remain in the occupation of Russia." At the Washington Conference, Arthur J. Balfour on behalf of the British Empire promised that this leasehold would be returned to China under reasonable conditions.[3] No final agreement, however, for this transfer has as yet been reached although it is stated that negotiations for this purpose have recently been resumed.

The French leasehold, the area around the Bay of Kuang-chou Wan, was granted by China in 1898 for 99 years. At the Washington Conference, René Viviani declared that France would restore its leased territory if all the other powers should do the same. He said:

> The Government of the republic is ready to join in the collective restitution of territories leased to various powers in China, it being understood that this principle being once admitted and all private rights being safe-guarded, the conditions and time limits of the restitution shall be determined by agreement between the Chinese Government and each of the Governments concerned.[4]

Great Britain showed no inclination at the Washington Conference to return its remaining leased territory, Kow-

[1] *Conference on the Limitation of Armament*, p. 1060.

[2] MacMurray, *op. cit.*, Vol. I, p. 112; Vol. II, p. 1488; *Conference on the Limitation of Armament*, p. 200; League of Nations, *Treaty Series*, Vol. X, p. 310; XXII, p. 257; XXVII, p. 426.

[3] MacMurray, *op. cit.*, Vol. I, p. 152; *Conference on the Limitation of Armament*, p. 226.

[4] MacMurray, *op. cit.*, Vol. I, p. 128; *Conference on the Limitation of Armament*, p. 1062.

loon Extension, opposite Hong Kong, obtained in 1898 for 99 years. Nor did Japan show an inclination to return the Liaotung Peninsula which was leased originally to Russia in 1898 for 25 years but which was transferred after the Russo-Japanese War to Japan under the conditions of the original lease. In 1915 Japan obtained by a treaty with China, the validity of which China denies, an extension of this lease to 99 years.[1]

Of the former leased territories, in summary, one has already been given back to China; one appears about to be returned; another is to be retroceded when the other foreign leaseholding states shall take the same action; but the remaining two are now held by foreign powers which appear to hold to the terms of the leases as written.[2]

Foreign Troops and Warships in China

The Chinese resent the presence in China of military forces from other countries, and wish to cancel those treaty provisions which are held to authorize them. The treaty-powers, however, point out that they are empowered by treaties and conventions to keep such forces in Peking and from Peking to the sea, and to patrol the rivers of China by their gunboats; and Japan maintains that it has a right to use railway guards on its South Manchuria system.

The Boxer protocol of 1901 clearly and definitely authorized the signatory foreign powers to fortify the Legation Quarter in Peking, to guard it by soldiers and to maintain additional troops at designated points from Peking to the sea. These rights the powers, including the United States, have exercised; the number of guards and troops has varied according to the exigencies of the military and political situation in North China. The validity and the meaning of the Boxer protocol are not denied by the Chinese, but they generally regard it as one of the unequal

[1] MacMurray, *op. cit.*, Vol. I, p. 127, 130, 523, 549; Vol. II, p. 1220.

[2] Hong Kong and the part of Kowloon immediately opposite were ceded to Great Britain in full sovereignty in 1842 and 1860 respectively. The more ardent nationalists demand that these also shall be returned to China.

treaties which is no longer adapted to present-day conditions.[1]

The right to send gunboats into China's inland waters is based upon Art. 52 of the Sino-British treaty of Tienstin, 1858, which reads:

> British ships of war, coming for no hostile purpose, or being engaged in the pursuit of pirates, shall be at liberty to visit all ports within the dominions of the Emperor of China, and shall receive every facility for the purchase of provisions, procuring water, and, if the occasion require, for the making of repairs. The commanders of such ships shall hold intercourse with the Chinese authorities on terms of equality and courtesy.[2]

Similar rights were granted to certain other states, and the remaining treaty-powers claimed the same privileges on the basis of the most-favored-nation clause. The Chinese deny that this British treaty justifies the present naval practise of sending gunboats in time of peace to river ports in China which are not treaty-ports. Some American authorities doubt whether the foreign powers are justified in the interpretation they give to these treaty provisions;[3] but the American Department of State expressed the opinion in 1903 that "our gunboats may visit the inland ports of China, including those which are not treaty-ports."[4]

The treaty basis for the maintenance of railroad guards will be considered in the chapter on Manchuria.

Inland Navigation

The principal inland waterways in China have been opened to the trade of foreign ships by treaties beginning

[1] For the Boxer protocol, see MacMurray, *op. cit.*, Vol. I, p. 278. Dr. C. T. Wang, Minister for Foreign Affairs, said in an interview, January 10, 1929: "The National Government considers the time and events that necessitated the protocol of 1901 as gone, therefore also the *raison d'être* of the protocol. Furthermore, it declares in protest that the stationing of troops in China is a serious violation of international law and it expects the powers concerned to afford immediate correction." *Japan Weekly Chronicle*, January 24, 1929, p. 92.

[2] *China. Maritime Customs, Treaties, Conventions, etc.*, Vol. I, p. 419.

[3] Willoughby, *op. cit.*, Vol. II, p. 854.

[4] United States, *Foreign Relations*, 1903, p. 85–90.

with the Sino-British treaty of Tienstin, 1858. In most of the advanced countries of the world, however, the rights of inland navigation are reserved for their own nationals or possibly granted to foreigners under special conditions. This right of inland navigation by foreigners is regarded by Chinese as another special privilege due to the unequal treaties.[1]

Missionaries

The exceptional privileges enjoyed by missionaries in China, the right to reside, to own land and to erect buildings for missionary purposes in the interior of the country, and to be protected in their missionary work are based upon clauses in the unequal treaties. So also is the right of native Chinese to embrace the Christian religion. During the past few years many missionaries, especially the American Protestant missionary societies, have advocated the elimination of these "toleration clauses" from the treaties in order that the rights of Christian missions in China should depend not upon treaty stipulation but upon privileges freely granted by the Chinese themselves.[2]

Financial Supervision and Control

By international agreements foreigners not only supervise the Chinese Maritime Customs Service but also the Chinese Post Office, and, in part, the Salt Administration. Foreign Governments control railroad systems in China, and the leading foreign banking groups with the support of their Governments have agreed through the Consortium to act jointly in regard to loans desired by the Chinese central or provincial Governments.

As to the postal department, the Chinese Government stated in its agreement of 1898 with France:

> When the Chinese Government organizes a definite postal service and places a high functionary at its head, it proposes to call for the help of foreign officers, and declares itself willing to take

[1] Willoughby, *op. cit.*, Vol. II, p. 846–953.

[2] Hornbeck, *op. cit.*, p. 456–458; Willoughby, *op. cit.*, Vol. II, p. 699–725.

account of the recommendations of the French Government in respect to the selection of the staff.[1]

At the Washington Conference the powers agreed to abolish their foreign post offices in China under certain conditions, one of which read:

> That an assurance is given by the Chinese Government that they contemplate no change in the present postal administration so far as the status of the foreign co-director general is concerned.

To this resolution the Chinese delegation agreed.[2] In the early part of 1929, a Norwegian was appointed co-director general of posts to replace a Frenchman.[3]

In the reorganization loan agreement of 1913 between the Chinese Government and British, French, German, Japanese and Russian banking groups, it was provided that a foreigner should be appointed associate chief inspector with extensive powers of the Chinese Central Salt Administration; and that the salt taxes should be deposited in the banks of these foreign financial institutions.[4] A foreigner still holds the post of assistant chief inspector, but there has recently been criticism by foreigners because the salt revenue is no longer deposited in foreign banks in accordance with the terms of the original loan agreement.[5]

Foreign powers or their nationals have obtained either ownership or exceptional rights of control over various railroads in China, notably the Chinese Eastern and the South Manchuria Railways.

It is their fear of further control or supervision by foreigners which has caused the apprehension felt by Chinese regarding the agreement made by the Four Power Consortium in 1920, with the approval of their respective

[1] MacMurray, *op. cit.*, Vol. I, p. 124.
[2] *Conference on the Limitation of Armament*, p. 1646.
[3] *Week in China*, January 26, 1929, Vol. XII, p. 84.
[4] MacMurray, *op. cit.*, Vol. II, p. 1026–1027.
[5] *Week in China*, November 24, 1928, Vol. XII, p. 3–5, 16–17.

Governments, by American, British, French and Japanese banking groups. This is sometimes called the second Consortium to distinguish it from the first, or Six Power Consortium of 1912, which was organized by banking interests of France, Germany, Great Britain, Japan, Russia and the United States, in order to participate equally in future administrative loans to the Chinese Government. President Taft regarded the Consortium as a desirable agency for maintaining the Open Door in China, but President Wilson, shortly after assuming office in 1913, declined to request the American banking group to continue in the Consortium, and criticized the terms of its proposed loan to China. As a result the American group withdrew.

During the World War the Consortium no longer functioned, but after the peace of Versailles, a second Consortium was organized at the suggestion of the American Government. In order to abolish spheres of interest and the struggle for concessions, the Consortium groups agreed that they would share all Chinese governmental loans, administrative, industrial or political, offered to any one of them. Although the American Secretary of State, Charles E. Hughes, described the Consortium as a "cooperative effort for the assistance of China," the Chinese have not availed themselves of its services, fearing that it would bring about an increased control by foreigners of the operations of the Chinese Government.[1]

The Recognition of the National Government

The New Capital at Nanking

For some years the division of China between contending Governments made it impossible for foreign states to negotiate new treaties which would be recognized throughout the country as a whole. With the victory of the

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. III, p. 3822; Willoughby, *op. cit.*, Vol. II, Chap. XLI; Carnegie Endowment, *The Consortium: The Official Text of the Four Power Agreement for a Loan to China and Relevant Documents.*

Nationalist armies in the spring of 1928, however, not only could such negotiation take place, but the formal recognition by the powers of the Government at Nanking as the *de jure* Government of China was also a natural consequence.

A preliminary step to such recognition, however, seemed to be a settlement of the unfortunate Nanking affair of March 24, 1927. Some of the Nationalist soldiers who captured Nanking that morning made an attack upon the foreigners, looted their homes, killed six and wounded or abused many others. The five powers concerned, France, Great Britain, Italy, Japan and the United States, at once made demands for satisfaction upon the Nationalist Government, then located at Hankow, dealing with it as the local *de facto* Government.[1] When the Nationalist authorities failed to meet these demands satisfactorily, certain Governments proposed that the powers concerned should jointly enforce military measures of a coercive character, but the United States was unwilling to participate in these and the plan was abandoned.[2]

A year later the United States took the lead in making a definite settlement of the Nanking incident by an exchange of notes with the minister of foreign affairs at Nanking, April 2, 1928. The Nationalist Government expressed profound regret for the indignities, losses and injuries, and added, "although it has been found, after investigation of the incident, that it was entirely instigated by the communists prior to the establishment of the Nationalist Government at Nanking, the Nationalist Government nevertheless accepts the responsibility therefor." It stated that "the troops of the particular division which took part in the unfortunate incident, at the instigation of the communists, have been disbanded. The Nationalist Government have in addition taken effective steps for the punishment of the soldiers and other persons implicated."

[1] For these demands and the reply of the Nationalist minister of foreign affairs, see *China Year Book, 1928*, p. 730–735.

[2] Hornbeck, Stanley K., "China and American Foreign Policy," *Annals of the American Academy of Political and Social Science*, July, 1928, p. 31.

It was agreed that a Sino-American joint commission should be appointed to verify the injuries and damages suffered and to determine the amount of compensation due in each case. The commission was shortly appointed, and the Chinese Government made an initial deposit of $100,000 silver on account of reparations.[1] It should be added that certain American missionary societies refused to accept indemnities for their losses sustained in the Nanking incident, and that the National Government, through its minister for foreign affairs, expressed high appreciation of this action.[2]

The other powers concerned in the Nanking affair, France, Great Britain, Italy and Japan, followed the example of the United States in making settlements of their claims, by exchanges of notes couched in much the same language as that employed in the Sino-American documents.[3] The Sino-American and Sino-British notes also refer to the naval barrage of March 24; no French, Italian or Japanese vessels participated in it.

The settlement of the Nanking incident was naturally followed by the formal recognition of the National Government as the *de jure* Government of China. This recognition was first granted by the United States by the act of signing the tariff treaty, July 25, 1928. According to the general practice of diplomacy, the signature of a formal treaty with a new government constitutes recognition of it. But much depends upon the intention of the recognizing state, and to remove any possible misunderstanding on this point, the American Department of State, September 27, declared that the signature of the tariff treaty

[1] For text, see *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1928, Vol. XII, p. 38–42; see also *American Journal of International Law*, January, 1929, Vol. XXIII, p. 120–121.

[2] *China Weekly Review*, January 26, 1929, p. 366.

[3] For the British notes, dated August 9, 1928, see *British Command Papers, China*, No. 1, 1928; papers relating to the settlement of the Nanking incident of March 24, 1927; also, *Chinese Social and Political Science Review*, Public Documents Supplement, October, 1928, Vol. XII, p. 67. For the text of the Sino-French notes of October 1 and 9, 1928, and the Sino-Italian notes of about the same dates, see *North China Herald*, October 20, 1928. For the Sino-Japanese notes, dated May 2, 1929, see *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 62.

had marked complete recognition of the National Government by the United States.[1] Other powers followed. The British minister, December 19, signed the Sino-British tariff treaty; and the following day, after this act of recognition, formally presented his credentials as minister to General Chiang Kai-shek, the head of the National Government. During the ceremony the British gunboat in the river at Nanking fired a salute of 21 guns.[2] By the close of the year 1928 all the treaty powers except Japan had granted recognition to the National Government by the signature of the several tariff treaties. During the present year, Japan also recognized the Nanking Government as the *de jure* Government of China. Japanese naval vessels at Nanking fired a salute in honor of the flag of the National Government, April 29; and, June 3, the Japanese minister formally presented his credentials to General Chiang Kai-shek at Nanking.[3]

Since Nanking has been made the capital of China, the powers must eventually consider whether they will transfer their legations from Peking to that city.[4] Already in April the minister of Cuba announced that he had been instructed by his home government to move the Cuban legation to Shanghai; and the Turkish minister stated that his country would establish a legation in Nanking itself, the first state to take this action.[5] To make a change of the legations would mean for the treaty-powers

[1] *New York Times*, September 28, 1928.

[2] *Week in China*, December 22, 1928, Vol. XII, p. 13–14.

[3] *Week in China*, June 1 and 8, 1929, Vol. XII, p. 452–453; p. 470–471.

[4] At the second anniversary of the establishment of the national capital at Nanking, which was celebrated April 18, 1929, Honorable Hu Han-min, speaking for the Government, said: "The change of capital is absolutely necessary in the wake of revolution. Petrograd was replaced by Moscow as a result of the Russian Revolution. The Turks abandoned their ancient capital of Constantinople as a signal to escape the degenerating influence of the feudalistic ports and the imperialistic domination of the powers, and instead chose the dilapidated Angora as their new national capital. Likewise, we removed ours from Peking to Nanking to be free from the atmosphere of monarchism, mandarinism and foreign imperialism which the old capital savored of. This act followed closely the late leader's wish." (*Chinese Affairs*, 1929, No. 34–35.)

[5] *Week in China*, April 13, 1929, Vol. XII, p. 260–261; *Japan Weekly Chronicle*, May 9, 1929, p. 534.

leaving the commodious, comfortable, treaty-protected legation quarter of Peiping for the overcrowded city of Nanking, where new legation buildings would have to be erected, and where the present exceptional diplomatic protection in Peiping would have to be abandoned. Yet if the National Government continues to develop in stability and strength, it will soon seem anomalous for the foreign ministers to reside in Peiping, when the officials with whom they must carry on diplomatic business have their offices over 500 miles distant.

Another recent action of several of the treaty-powers, which showed the international confidence in the growing stability of China and manifested the desire of the powers to support the National Government, was the cancellation of the arms embargo agreement of 1919. This agreement, signed by France, Great Britain, Japan, the United States and other treaty powers, bound the signatory states to prevent their citizens from exporting munitions to China "until the establishment of a Government whose authority is recognized throughout the whole country." On April 26, 1929, the National Government was informed that this agreement was canceled by the signatory powers. So far as the United States is concerned, our Government will henceforth permit the export of arms from this country to China upon the request of the National Government, but not otherwise.[1]

[1] Department of State, Press Release, May 1, 1929; *New York Times*, May 1, 1929.

II. CHINA'S RELATIONS WITH INDIVIDUAL POWERS

The United States

In addition to the issues between China and the powers as a group, largely concerning the unequal treaties in their various phases, certain of these powers have Chinese problems of their own. Each of the leading foreign states too has interests and policies which differ somewhat from those of the others.

The policies of the United States and the attitude of the American people toward China have been distinctive and in the main consistent throughout the past century.[1] The official policies have aimed to maintain (1) the Open Door and (2) the territorial and administrative integrity of China. The United States, moreover, has always opposed seizures of territory in China and the demarkation of spheres of interest by the powers.

These two related policies were developed in the early days of American contact with the Far East. Shortly after the independence of the United States, when ships from the Atlantic coast were sailing to the Orient, the Government began to insist upon the right of the most favored nation, which is the same in principle as that of the Open Door. Later when it came to be realized that equal opportunity in trade and commerce required a united China, the preservation of the integrity of that country came to be recognized as a secondary aim of the United States. These two distinctive policies, which had actually been in effect for some decades, were first definitely formulated by Secretary John Hay in 1899 and 1900. For some

[1] The best extended account of American policy to 1900 is to be found in Dennett, Tyler, *Americans in Eastern Asia.* An excellent summary of the present policy is given by Hornbeck, S. K., "China and American Foreign Policy," *Annals of the American Academy of Social and Political Science*, July, 1928, Vol. CXXXVIII, p. 26–37.

years they were a strong and helpful factor in China's international relations. Finally, at the Washington Conference, 1921–1922, they were carefully defined and embodied in a general multilateral treaty signed by the nine Pacific powers.[1]

These policies have aimed not only to further the commercial interests of the United States but also to establish principles which would help to maintain peace and security in China and the entire Far East. In the early days the China trade was an important part of American foreign commerce. At present while it is not so large proportionately, American trade with China, which amounted to over $322,000,000 in 1928 (including Hong Kong and Kwantung), is surpassed in value only by that of Japan and Great Britain (including Hong Kong). It furnishes about 20% of China's imports and 25% of its exports.[2]

The attitude of the American people toward China is traditionally one of sympathy and friendship. One of the causes for this feeling is undoubtedly to be found in the many educational and missionary activities carried on by Americans in that country. In fact, American investments in China of a philanthropic, educational and missionary character are estimated to exceed by some $10,000,000 (gold) the investments for business purposes.[3] This unusual situation was pointed out by the Chinese minister, Dr. Sze, in an address at the Institute of Politics at Williamstown in 1923, when he said that Americans had put into China more money as gifts than American business had ever taken out of China as profits. The particularly friendly feeling of America is recognized as an important factor both by Chinese and by foreigners. It

[1] *Conference on the Limitation of Armament*, p. 1621.

[2] American trade with China is much greater than appears from the reports of the Chinese Maritime Customs. See Arnold, Julean (American commercial attaché: Peiping), *China: A Commercial and Industrial Handbook* (Department of Commerce, 1926), p 42–44; *Some Bigger Issues in China's Problems*, 1928, chart 2.

[3] The estimate of $78,000,000 (gold) for American investments in China for hospitals, schools and missions, and of $68,000,000 for business purposes, was made by members of the Round Table on China at the Institute of Politics, 1927. Investments of the latter class are placed at $69,300,000 (gold) by Dean Frederic E. Lee in his *Currency, Banking and Finance in China*, Department of Commerce, 1926, p. 123.

is commonly stated by those in the Far East who wish the powers to pursue a strong, realistic policy toward China — foreigners and American business men in general in the treaty-ports — that the greatest obstacle to such a policy is the "sentimental attitude" of the American public. A definite expression of this feeling was shown in the Porter resolution, which passed the House of Representatives, February 21, 1927, by a vote of 262 to 43.[1] It requested the President to negotiate new treaties with China regarding extraterritoriality, customs dues, and

> such other treaty provisions as may be found to be unequal or nonreciprocal in character, to the end that henceforth the treaty relations between the two countries shall be upon an equitable and reciprocal basis and will be such as will in no way offend the sovereign dignity of either of the parties or place obstacles in the way of realization by either of them of their several national aspirations or the maintenance by them of their several legitimate domestic policies.

Since extraterritoriality is clearly "nonreciprocal in character" and, in the view of the Chinese, does "offend the sovereign dignity" of their country, it would appear that the Congressmen who voted for the resolution, if they read it with any care, declared for the early abolition of American extraterritorial rights in China. In any case — and probably a more accurate interpretation — they wished to put themselves on record in favor of giving China "a square deal."

While the leading American policies toward China have remained substantially unchanged, it has been an issue for nearly a century whether they should be pursued by independent action or by cooperation with other states in the Far East.[2] In many instances cooperation is impossible, for it must be limited, naturally, to cases where there exists or can be achieved a substantial unanimity of

[1] *Congressional Record*, 69th Cong., 2d Sess., Vol. 68, p. 4347; Hornbeck, *op. cit.*, p. 561.

[2] For a statement of the problem of cooperation, see Hornbeck, *Annals*, *op. cit.* For a history of cooperation to 1900, see Dennett, *op. cit.*

opinion among the states concerned in regard to a proposed action. No genuine and complete cooperation could have been possible between the United States and the European powers during 1896–1898, when the latter were seizing sections of Chinese territory and the United States was strongly opposed to what they were doing. But there is a wide field in which apparently a course either of cooperation or of independent action might properly be taken. Each method has its advocates. Those who favor cooperation wherever possible point to the Washington Conference, whose success depended upon joint action with other powers; those who prefer an independent course, refer to the remission of the Boxer indemnity in 1908, which obviously could not have been brought about at that time by means of a conference.

During the past few years the United States has cooperated with other powers in the Washington Conference; the Peking tariff conference; the demand for redress for the Nanking incident of March 24, 1927; the ultimatum delivered to both Chinese parties, in March, 1926, insisting upon the freedom of passage from the sea to Peking; the defense measures for the protection of Americans and other foreigners in certain of the treaty-ports; and the recent notes declining to renounce immediately the extraterritorial rights in China. On the other hand, the American Government has acted independently in its refusal to use force to back up the Nanking demands of April, 1927; its settlement of the Nanking incident, April 2, 1928; its negotiation of the tariff treaty of July 25, 1928; and its consequent recognition of the National Government.

At present the advocates of independent action in general favor a liberal policy toward China, while those who prefer cooperation wish to proceed slowly in granting China's demands. When the writer had the pleasure of talking with General Chiang Kai-shek, in November, 1927, and asked him what statement, if any, he would like to have made public in America, he replied at once, "the United States should negotiate directly with China and not in

cooperation with either Great Britain or Japan." A few days later when the same query was addressed to Baron Tanaka in Tokyo, he said, "the greatest need is that there should be the closest possible cooperation between America and Japan in regard to China." The American Government appears to deal with each case as it arises, and either to cooperate with the other Far Eastern powers or to follow independent action as seems best calculated to achieve the basic policies of the United States in Eastern Asia.

The present situation is radically different from that of the days when Secretary John Hay wrote his notes on the Open Door and the integrity of China. Then the European powers were violating both of these American policies. Now there is little danger, with the single exception of apparent Soviet designs on Mongolia, of territorial aggressions by outside powers. The outstanding issue at present in China's foreign affairs is its demand for the abolition of all unequal treaties and privileges, and this has a bearing upon the American policy of supporting the administrative integrity of China. The United States has shown that it is not only willing, but anxious, to renounce all exceptional rights in China as soon as this may be done consistently with the maintenance of what it regards as adequate protection of American life and property. In the note from the Secretary of State to the Chinese minister for foreign affairs, delivered July 24, 1928, he said:

> The good will of the United States toward China is proverbial, and the American Government and people welcome every advance made by the Chinese in the direction of unity, peace and progress. We do not believe in interference in their internal affairs. We ask of them only that which we look for from every nation with which we maintain friendly intercourse — specifically, proper and adequate protection of American citizens, their property and their lawful rights, and, in general, treatment in no way discriminatory as compared with the treatment accorded to the interests or nationals of any other country.[1]

[1] Department of State, Press Release, July 26, 1928: *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XII, p. 60–61.

Great Britain

British policy toward China has differed from that of the United States in several respects, notably in that Great Britain, however much it may have favored the Open Door and the integrity of China, has actually participated in the seizure of Chinese territory and the demarkation of foreign spheres. Its economic interests and its trade also have been much greater than those of the United States. The value of its investments in China, not including Hong Kong, which is British territory, has been variously estimated, but must approximate $1,000,000,000 (gold). The China trade of the British Empire as a whole, including India and the Dominions, is greater than that of any other country, while the trade of Great Britain and Hong Kong together, although somewhat less than that of Japan, is larger than the direct trade between China and the United States.[1] In defense of these interests and other rights, as it viewed them, Great Britain has fought two wars with China, 1840–1842 and 1856–1860. Its economic stake in China has been great, and it has been willing to maintain it by force.

During the past few years there have been two important developments in Sino-British relations: the serious anti-British boycott carried on by the Chinese from 1925 to 1927 and the change in British policy marked by the memorandum of December 18, 1926. The boycott and the violent outburst against the British which swept over China for some months were occasioned first of all by the May 30 affair, 1925, in the International Settlement at Shanghai, when some of the municipal police, under the command of British officers, fired into a crowd of Chinese, who were threatening one of the police stations, and killed and wounded a considerable number. The indignation aroused by this massacre, as the Chinese regarded it, was stimulated by somewhat similar incidents in other cities,

[1] For trade statistics for 1927, see Great Britain, Department of Overseas Trade, *The Commercial, Industrial and Economic Situation in China*, to September 1, 1928, p. 63; *China Year Book, 1928*, p. 131–136.

especially the Shameen affair in Canton, June 23, 1925, and was strengthened by more fundamental causes, particularly by the long-held belief of the Chinese that the British formed the foremost imperialistic element in China,[1] and by the advice of the Soviet agents that it would be good tactics to concentrate the rising anti-foreign feeling of the country against Great Britain, the strongest of the foreign powers.[2] The anti-British boycott which resulted was carried out in all parts of China, but was enforced most effectively by Canton against the British city of Hong Kong. It was accompanied by a strike of the Chinese workers in Hong Kong, which led to the exodus of some 200,000 Chinese from that city into neighboring Chinese territory. The boycott, which lasted for 16 months from June, 1925, to October 10, 1926, caused great losses to British merchants, traders and shippers.[3]

It may have been the bitter experiences of this year and a half which led Great Britain to reconsider, and then radically to change, its policy toward China. Its new program which was outlined in a memorandum delivered in December, 1926, to the representatives of the Washington treaty-powers at Peking, and made more specific in the official proposals to the Chinese authorities January 27, 1927, was marked by the spirit of extreme conciliation.[4]

[1] This point of view was expressed by Mr. Eugene Chen, foreign minister of the Hankow Government, in a declaration of January 23, 1927, which said in part:

"In a very real sense, therefore, it is historically true to state that the British, having defeated China in the opium wars, deprived her of her independence. . . . A nation that is not dying can never be at peace with its conqueror. It will strike at a selected moment. The selected moment of Chinese Nationalism came when British-controlled rifles were ordered to 'shoot to kill' Chinese students on Chinese soil on May 30, 1925, at Shanghai; and the movement of liberation found an instrument of power when, following the further killing of Chinese students and others by foreign machine-guns on June 23 off the Shameen in Canton, the economic weapon was forged by Chinese Nationalism in the south." (*China Year Book, 1928*, p. 762.)

[2] See documents found in the raid on the office of the Soviet military attaché, Peking, April 6, 1927, *China Year Book, 1928*, p. 792–823, especially the instructions to the Soviet military attaché, p. 800.

[3] For a good account of this period, see Toynbee, *op. cit.*, 1925, p. 386–388; *ibid.*, 1926, p. 286–291; for a more detailed account, see *China Year Book, 1926*, Chap. XXVII; *China Year Book, 1928*, Chap. XXII.

[4] *China Year Book, 1928*, p. 756–761; see also statement of British policy in China, February 8, 1927, circulated to Member states of the League of Nations, League of Nations, *Official Journal*, Vol. VIII, p. 293; Hornbeck, *op. cit.*, p. 556.

The British Government proposed a number of definite concessions to China regarding the tariff, extraterritoriality and the foreign-administered areas in the treaty-ports; it termed its program "this new policy," and stated that the powers "should abandon the idea that the economic and political development of China can only be secured under foreign tutelage. . . . They should expressly disclaim any intention of forcing foreign control upon an unwilling China." [1] This new attitude has been maintained by the British Government notwithstanding many provocations, as the British have regarded them, and in spite of the opposition of their own "treaty-port" element in China, and to-day has the support of all three parties in the British Parliament. The new policy did not at first appreciably affect the attitude of the Chinese, due both to the intensity of the emotions which had been aroused and to the large military forces which were sent to Shanghai about this time for the protection of the International Settlement. But it has gradually convinced the majority of the Chinese of the genuineness of the British, and the latter have already regained much of the ground lost during the turbulent years from 1925 to 1927.

In addition to the problem of extraterritoriality which Great Britain shares with the other treaty powers its immediate issues with China relate principally to the rendition of Weihaiwei and the numerous British concessions and settlements.

Japan

Japan doubtless is more greatly interested in China than any other power due to its geographical situation, its heavy investments and its dominance in China's foreign trade. As it has been well expressed by Mr. Y. Tsurumi, a leading publicist in Japan, now a member of the Imperial Diet, "Japan's vital issue in foreign affairs is China." [2] Japanese capital, it has been estimated, has been invested in

[1] *China Year Book, 1928*, p. 756–761; see also statement of British policy in China, February 8, 1927, circulated to Member states of the League of Nations, League of Nations, *Official Journal*, Vol. VIII, p. 293; Hornbeck, *op. cit.*, p. 556.

[2] "Difficulties and Hopes of Japan," *Foreign Affairs*, January, 1925, p. 253–265.

China to the approximate amount of over $1,000,000,000 (gold). Japan's trade with China is much greater than that of any other state, even than the combined trade of Great Britain and Hong Kong.[1] And the proportion which this China trade bears to Japan's total world trade is much larger than in the case of any other country.

The underlying policy of Japan at present appears to be to develop a close economic entente with China as a whole, in order to obtain an assured supply of raw materials and a growing market for its manufactured goods, and to protect its special interests in Manchuria. Count Uchida, when minister for foreign affairs, stated in the Diet, "that with a large population in a small territory, Japan could only insure her existence by cooperating with China." [2]

But the methods of attempting to realize these aims have varied from time to time. In the period up to the Washington Conference, during which Japan appeared in part to wish to imitate "the policies of western powers on the Asiatic continent, namely, the extension of the sphere of influence and special privileges," [3] the relations with China were characterized largely by force, or the threat of force. During this period there occurred three wars: with China, 1894–1895, over Korea; with Russia, 1904–1905, over Manchuria and Korea; and with Germany, 1914–1919, actually over Shantung. In this period, too, came the Twenty-One Demands, which were presented by the Japanese Government in 1915 to the President of China. They aimed to obtain for Japan special privileges of various kinds in China, particularly in the region of Manchuria. Although the most objectionable, known as Group Five, were temporarily withdrawn, most of the others were granted by China under pressure of a Japanese ultimatum containing a threat to use military force. At present the leading Japanese appear to regard these demands as unfortunate.

[1] But not greater than that of the British Empire. *China Year Book, 1928*, p. 131–136.

[2] *Japan Weekly Chronicle*, February 1, 1923.

[3] Tsurumi, Y., "Difficulties and Hopes of Japan," *Foreign Affairs*, January, 1925, p. 262.

A new policy, however, developed from about the time of the Washington Conference and continued until the spring of 1927. This was popularly known as "the friendship policy," and was associated particularly with the name of Baron Shidehara, minister for foreign affairs during the latter part of this period. Evidence of this new attitude toward China was seen in Japan's withdrawal of her troops from Shantung and Hankow; the closing of her post offices throughout China; the remission of her share of the Boxer indemnity, which is to be used as a special fund for Chinese educational and cultural work; and her reluctance to use force to support her position in China.

But a different policy was adopted when Baron Tanaka, the head of the opposition party, the Seiyukai, came into office in April, 1927. This was known as a "positive policy," and appeared to be revealed in the sending of two military expeditions to Tsinan, Shantung, in the summers of 1927 and 1928, and in a more vigorous assertion of Japan's special rights in Manchuria. This policy resulted in serious friction with China, a damaging anti-Japanese boycott, and public criticism by the leading diplomats of the Minseito party in Japan, notably by Baron Shidehara and former Ambassador Hanihara.[1]

Another change in administration took place in July, 1929, when the Minseito party came into power with Baron Shidehara once again minister for foreign affairs. The principal feature of the new cabinet's statement of aims is its insistence that Japan's policy toward China shall be revised and placed "on the basis of good will and neighborliness;" it declares that the earlier policy of cooperation with China in the abolition or revision of the unequal treaties will be resumed, and that Japan desires "the coexistence and common prosperity of the two countries." The manifesto adds:

Our Government not only rejects a policy of aggression in any part of China but is prepared to render friendly aid to China for

[1] For Mr. Hanihara's article, see *Week in China*, May 11, 1929, Vol. XII, p. 353–358; for Baron Shidehara's address, *ibid.*, November 10, 1928, Vol. XII, p. 14–25.

the attainment of the national aspirations of China, but it, of course, is the responsibility of the Government to protect and preserve the legitimate rights and interests that are indispensable to Japan's existence and prosperity. The Government believes that the Chinese people understand this point fully.[1]

Of the recent issues between Japan and China — in addition to those concerned with the unequal treaties which have already been described, and those dealing with Manchuria which will be considered later — the most important relates to the Tsinan incident of May, 1928. There was an earlier Tsinan incident, however, somewhat similar although less serious, in June, 1927. At that time the Nationalist, or southern, armies were advancing against Peking, and would naturally pass through Tsinan, the leading city and railroad center of Shantung, in which some 2,000 Japanese resided. Due to the unfortunate events earlier in the year at Hankow and Nanking, there was considerable apprehension for the safety of the lives and property of these Japanese. Since Tsinan is inland, it was not possible to protect them by naval ships, as the British and Americans were doing for their nationals in the Yangtze valley at that time. Therefore, the Japanese Government sent soldiers into Shantung — a total of 4,300 — and placed 2,000 of them in the city of Tsinan. But both the Peking and Nanking Governments protested to Japan and demanded the immediate withdrawal of the troops. The official news agency of the Nanking Nationalists, moreover, stated that these troops interfered with the advance of the Nationalist forces toward Peking. It was a common belief among the Chinese that these Japanese soldiers in some numbers took part in the fighting against the Nationalist troops. As a result of the strong feeling of the Chinese an anti-Japanese boycott was organized. After the retreat of the Nationalist forces, the Japanese soldiers were withdrawn.[2]

[1] Manifesto of the Japanese Cabinet, July 9, 1929, *Japan Advertiser*, July 10, 1929.

[2] For official statement of the Japanese Government, see J. B. Condliffe, *Problems of the Pacific*, p. 283; for views of Mr. Y. Tsurumi, *ibid.*, p. 499–500. See also, *Current History*, September, 1927, p. 990.

The following year when the Nationalist forces were making their second northern drive and were entering Shantung, Japan once again sent troops to Tsinan. The Nationalist Government protested and demanded that the Japanese soldiers be withdrawn. On May 1, however, both Nationalist and Japanese troops entered Tsinan; the following day their commanders opened negotiations; but on May 3 the soldiers began fighting, and for several days trouble continued with a heavy loss of life and property. Both the Japanese and the Chinese Nationalist Governments issued official explanations, and both transmitted statements to the League of Nations.[1] A serious anti-Japanese boycott was established in many parts of China. Both sides wished to settle the unfortunate affair; but negotiation seemed difficult due to the other aggravated issues which were pending at the time. Finally, after many conferences and much delay, the Japanese minister, Mr. K. Yoshizawa, and the Chinese minister for foreign affairs, Dr. C. T. Wang, signed an agreement, March 28, 1929. The salient points as given out in the official communiqué from the Nationalist Government are as follows:

(1) Within a period of at most two months from the date of signing the agreement, the Japanese Government will withdraw all Japanese troops from Shantung. The National Government, after the withdrawal of all Japanese troops, will bear full responsibility for the protection of Japanese lives and property in China, as it has repeatedly declared that it holds itself responsible according to international law for affording adequate protection to all foreigners in China.

[1] Since Japan is a Member of the League, the letter from the Japanese Government of May 27, 1928, containing the Japanese statement, was circulated to Member states and is published in League of Nations, *Official Journal*, Vol. IX, p. 792.

The Chinese Nationalist Government sent an appeal to the Council of the League, May 10, asking it, in accordance with Art. 11 of the Covenant, to call an immediate meeting of the Council in order to request Japan to withdraw its troops from Shantung. This document according to press reports was sent to the several Members of the Council, but since the Chinese Nationalist Government was not represented in the League — the Chinese delegate holding his appointment from the Peking Government — it was not circulated to all Member states and was not printed in the Official Journal. *Week in China*, May 12, 1928, Vol. XI, p. 28–29.

(2) A Sino-Japanese joint commission . . . will be established for investigation and adjustment of the question of losses sustained by both countries due to the Tsinan incident.

(3) . . . [Both] Governments deplore extremely the unfortunate Tsinan incident of May 3 of last year. Now, the Chinese and the Japanese Governments and peoples sincerely hope for the improvement of Sino-Japanese relationships. In order to achieve this end, they regard the unhappy feeling resulting from the Tsinan incident as past and hereby make this declaration.[1]

The Japanese troops were withdrawn within the stipulated period but the boycott of their goods which the Japanese hoped would be terminated by the agreement did not cease at once. It is to be noted that it is not specified which of the two nations is to pay for the losses at Tsinan which are to be investigated by the Sino-Japanese commission; apparently that is left for recommendation by the commission. The agreement was widely criticized in Japan on the ground that the Japanese Government had obtained none of the terms upon which it had publicly stated it would insist.[2]

Shortly after the agreement regarding the Tsinan affair, Dr. C. T. Wang and Minister K. Yoshizawa exchanged notes May 2, 1929, settling the Nanking incident of March 24, 1927, and the Hankow incident of April 3, 1927.[3] The Nanking notes were similar to those previously signed by the other powers concerned, but the trouble at Hankow, an attack by a Chinese mob, was limited to the Japanese concession in that city and affected Japan alone. Dr. Wang's note read in part:

Although it has been proved, after investigation, that the incident was caused by instigation of the Communists, it is however very regrettable, in view of the friendly relations subsisting between China and Japan. It is proposed, therefore, that in

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1929, Vol. XIII, p. 53. For the earlier notes exchanged between the Chinese and Japanese Governments, see *ibid.*, July, 1928, Vol. XII, p. 49–58.

[2] *Japan Weekly Chronicle*, April 4, 1929, p. 404–405.

[3] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 62.

accordance with the principles of international law, compensation shall be given, within the limits of reason and necessity, for personal injuries and property damage sustained by members of the Japanese consulate and of the Japanese navy and Japanese residents; and a Sino-Japanese joint commission shall be instituted to investigate on the spot the actual damage suffered by the Japanese and to assess the exact amount of compensation.

Regarding the personal injuries suffered by Chinese citizens at the beginning of the incident, it is requested that adequate relief be given so that the whole affair may be amicably settled.

Another important issue between China and Japan relates to the so-called Nishihara loans, which were advanced to the Peking Government between 1917 and 1920 by a syndicate of Japanese bankers formed at the instance of the Japanese minister of finance. One loan was for "war participation," the others were nominally industrial loans and by the terms of the various agreements were to be used for such purposes as building railways in Manchuria and in Shantung. Actually the money was expended by the Chinese military group then in control in Peking in financing themselves and their forces in the civil war. These Nishihara loans, which were guaranteed at least in part by the Japanese Government, were advanced without adequate security and are now in default. They were considered among China's other financial obligations at the Peking tariff conference in 1925. Following this conference, the Japanese Government itself took over these loans, in accordance with an act which passed the Diet, March 24, 1926, and now urges that China make some provision for their payment. The Chinese Government has thus far refused to do this, maintaining that the loans were not made for legitimate economic purposes but for the object of gaining a special political position for Japan in China.[1]

[1] King-Hall, Stephen, *Western Civilization and the Far East*, p. 161–163; Willoughby, *op. cit.*, Vol. II, p. 1002; *China Year Book, 1923*, p. 721

Soviet Union

The Soviet Union recently exerted a very great influence in China and was exceptionally popular. This period extended from 1919 to 1927, but Soviet prestige was at its height from the middle of 1925 to the middle of 1927. After that it declined rapidly until Russia was one of the most disliked of foreign nations, and her diplomatic and consular officials were expelled from China.

Russia's relations with China must be considered under two heads: China as a whole and Manchuria. In China as a whole, the immense strength and influence which the Soviet Union exerted for some few years were due to two causes: Russia's apparently voluntary renunciation of all its unequal treaties; and, second, the close relations which developed between Soviet Russia and the Nationalist Party, or Kuomintang, at Canton.

The Soviet Government made its advances to China at about the same time that the treaty powers at Paris were refusing to free China from any of the unequal treaties, and were, moreover, transferring to Japan Germany's former rights in Shantung. When the Chinese were feeling grievously disappointed at the action of the powers, Russia sent a message to the people and Governments of China, signed July 25, 1919, and followed it by another to the ministry of foreign affairs of the Chinese Republic, signed September 27, 1920, making in part the following appeal:

> If the people of China wish to become free like the Russian people and be spared the lot prepared for them by the Allies at Versailles, which would make of China a second Korea or a second India, let it be understood that its only ally and brother in its struggle for national freedom are the Russian workers and peasants and their Red Army.[1]

In the first declaration the Soviet Government stated that it annulled all the special privileges including extra-

[1] Bau, M. J., *China and World Peace*, text, p. 130–134; compare text in *China Year Book, 1924*, p. 868–870.

territoriality which Russia had obtained in China; renounced all conquests; gave up its share of the Boxer indemnity; and offered to negotiate on all other issues, "and thus once for all do away with acts of violence and injustice, committed on China by former Russian Governments in common with Japan and the Allies." The second declaration proposed a draft treaty by which the Soviet Government, in return for concessions by China, would give up all these exceptional privileges of the unequal treaties.[1]

Four days before the second declaration was signed, the Chinese Government by presidential decree withdrew its recognition of the old tsarist Government and took over in trust all former Russian rights and interests in China including concessions, Boxer indemnity and extraterritorial privileges. It is to be noted that China, relying on the Russian declaration of 1919, appropriated these former Russian rights and interests by unilateral action and without formal treaty agreement. They were in actual Chinese possession in 1920.

After long negotiations, however, a formal document was signed, May 31, 1924, entitled "Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics." As the title states, the agreement deals with general principles; but it is provided that there shall be held "within one month after the signing of the present agreement, a conference which shall conclude and carry out detailed arrangements relative to the questions in accordance with the principles." This conference, which should have been held within one month, was not convened for over a year, meeting in August, 1925, but it accomplished nothing. By strict international law the validity of most of the articles of the agreement is questionable if they are viewed as definite grants immediately applicable. Ambassador Karakhan, for example, in order to obtain the former Russian legation in Peking, insisted

[1] *China Year Book, 1924*, p. 870–872.

that the old tsarist treaties with China remained valid until they were canceled. It is doubtful whether the Soviet Government has ever, in a strictly legal sense, recognized the abrogation of extraterritoriality. But the agreement appeared to renounce all the privileges of the unequal treaties, and that was adequate for the Chinese people as a whole. Two definite and immediate provisions were embodied in the agreement and its accompanying documents: the recognition of the Soviet Government by China and a provisional agreement for the management of the Chinese Eastern Railway.[1]

The favorable effect of the declarations of 1919 and 1920 and the agreement of 1924 was heightened by the frequent addresses of the Soviet representatives in Peking, Joffe and, especially, Karakhan. These men helped greatly to convince large numbers, especially of students and the intelligensia, that the Soviet Union was the herald of a new era, and was a real friend of China in its struggle to free itself from the imperialism of the treaty-powers.[2]

The influence of the Soviet Union was greatly increased by a virtual alliance with the Nationalist Party in Canton. Dr. Sun Yat-sen, the leader of the party, was in serious need of outside support and in 1923 sent to both the United States and England to obtain military officers to organize the Nationalist army on a modern basis. Only after his failure did he turn to Soviet Russia which then supplied help of nearly every kind. The Soviet cause was aided by the Chinese Communist Party which was admitted into the Kuomintang in 1924. While Dr. Sun Yat-sen believed that the communists would be converted to the principles of the Kuomintang, and while they did add numbers and enthusiasm to the Nationalist movement, they retained their communist beliefs and became an effective agency for the infiltration of Bolshevik ideas into China.

[1] For the text of the agreement and accompanying documents, see League of Nations, *Treaty Series*, Vol. XXXVII, p. 175; *China Year Book, 1924*, p. 1192.

[2] *China Year Book, 1928*, p. 1319–1320.

Soviet Russia was unquestionably of very great assistance to the Nationalist party at that time. It provided effective advisers, munitions of war, plans for party and army reorganization and methods of modern propaganda. Of the many advisers, the most influential were M. Borodin, who is now known to have taken his orders directly from Moscow, and General Galen, a skillful strategist. It was M. Borodin who planned the Whampoa Military Academy near Canton where some 40 former Russian officers, in addition to Chinese instructors, gave large numbers of enthusiastic Chinese training in both military science and Soviet principles and methods. Great quantities of military supplies of all kinds were furnished by the Soviet Union. When the secret Soviet documents were seized in Peking in April, 1927, they showed that a large proportion of these were still unpaid for, and that the Moscow embassy in Peking was acting as agent between the Soviet Government and the Kuomintang in Canton. One document states that "the cost of supplies already handed over to Canton is 2,500,000 rubles." In August, 1926, Marshal Feng Yu-hsiang signed a receipt for military supplies already received from the Soviet Union valued at 6,395,642 rubles.[1]

The Kuomintang was given the same effective form of organization as the Bolshevik party in Russia, and the army was placed under the political control of the party. The communist methods of propaganda were adapted for use among students, workmen and peasants — for a time with almost startling success. The brilliant military achievements of the Nationalist forces in their northern advance beginning in July, 1926, furnished visible evidence of the effectiveness of the Soviet cooperation.

But after Moscow's influence had reached its height in the early months of 1927, it began to decline. From the beginning the conservative and moderate wings of the Kuomintang had disapproved of communism and of the influence of the Russians. In 1925 and 1926 there were

[1] For the text of the agreement and accompanying documents, see *China Year Book, 1924*, p. 800–806; 817–819.

bitter struggles for power in Canton between the two wings of the party, but they composed their differences sufficiently to unite for the northern campaign. When the upper Yangtze had been conquered these differences broke out again. Soon there were two capitals, one at Hankow under Borodin's influence, and another at Nanking under General Chiang Kai-shek, the leader of the anti-Communist wing. The Nanking attack upon the foreigners, March 24, 1927, which was in large part at least an attempt of the communists to discredit Chiang Kai-shek and the moderates, turned many Chinese against both communists and Russians. A "party-purging movement" to free the Kuomintang from the communists was then carried out by the moderates in the cities under their control. Suspicion of the Russians was strengthened among many Chinese by the revelations obtained from documents discovered in the Chinese raid, April 6, 1927, on the offices of the Soviet military attaché and adjoining buildings in the legation quarter in Peking. These revelations were in part substantiated by the documents which the British found in their raid about the same time on Arcos House in London.[1] The documents, while denounced as forgeries by Moscow, were generally regarded as genuine both in China and in foreign countries. They proved that the Soviet embassy compound contained the headquarters of the communists, who had made elaborate and detailed plans for the overthrow of the Peking Government and the establishment of a communistic régime; that the Soviet embassy had an extensive secret service organization throughout China; and that the Soviet advisers and military instructors in the Nationalist service who took an active part in the councils of the Kuomintang were in the pay of the Soviet Government. In addition, these confidential papers contained comments by the Russians upon the Chinese which were far from complimentary. Altogether these revelations exercised a considerable effect upon Chinese public opinion unfavorable to the Soviets.

[1] For the text of the agreement and accompanying documents, see *China Year Book, 1924*, p. 792–824.

In July, Hankow, the center of the communist and Soviet influence, was also "purged." The cause was believed to be a new set of instructions issued by the Third (communist) Internationale, directing the communists to take control of the leading committees of the Kuomintang and to form a separate Red Army. When the radical Chinese leaders, who were still trying to carry out a policy of cooperation with the Soviet Union, learned by chance of this action of the Third Internationale, and realized that Soviet authorities were working for their overthrow, they turned against both communists and their Russian advisers and drove Borodin, Galen and their associates from Hankow. But the communists were not entirely suppressed. In Canton, December 11, with the assistance of some of the Russian officials in the local consulate, they seized the city, set up a communist régime accompanied by a reign of terror and maintained themselves for three days; then they were overthrown and a ruthless anti-communist suppression was instituted in which, it was estimated, some 2,000 were put to death. As a result, vigorous anti-Soviet measures were taken in Nanking, Shanghai and Hankow.

The year 1927, which opened so brilliantly for the Soviet Union in China, closed with the almost total elimination of Russian political influence from that country. As a result of the Canton communist uprising, the Nationalist Government severed relations with the Soviet Union December 14, on the ground that the Soviet consulate and commercial agency had been used as bases of operations by the Canton communists, and ordered all Soviet consulates and commercial agencies throughout Nationalist territory to be closed and their staffs to leave the country. Since the Russian mission had left Hankow in July, and the Soviet embassy in Peking had been closed as a result of the Chinese raid in April, the only officials of the Soviet Union left in China at the close of 1927 were a few consuls in the north.[1] This situation continued until July, 1929,

[1] For the decline of Russian influence in China, see Toynbee, A. J., *Survey of International Affairs*, 1927, p. 331–365; *China Year Book, 1928*, p. 1349–1401.

when all political relations were severed temporarily, due to the crisis over the Chinese Eastern Railway.

The dramatic change in the sentiment of Chinese toward Soviet Russians may be pictured from the words of a foreigner who lived through the terrible days of December in Canton, and wrote of the events shortly after they occurred. The attitude of the Cantonese, who only a few months before had welcomed the Russians with enthusiasm, is described in his letter:

> The five Russians (including the Soviet vice consul) captured in the revolutionary headquarters were the first to be killed. Before a large crowd of Chinese and a few foreigners they were stood up against the wall of the building where they had been directing the revolution and were shot. A shout of approval went up as these men fell before the firing squad.

The present issues between the Soviet Union and China relate to Manchuria and Mongolia. The latter is a vast, semi-arid region, one third as large as continental United States but with a population of only some 2,000,000, most of whom are nomads. Although Mongolia has been a part of China for some centuries, it has enjoyed a large measure of autonomy. Shortly before the World War, the tsarist Government attempted to extend its political influence in the country. After the World War it was occupied in turn by White and Red Russian troops. In the general agreement signed in 1924, Russia stated unqualifiedly that it recognizes Mongolia to be "an integral part of the Republic of China and respects China's sovereignty therein." Nevertheless, the Soviet Union maintains actual control over the country. The National Government of China, as is natural, is now insisting upon extending actual jurisdiction over Mongolia, and in January, 1929, appointed a Mongolian and Tibetan affairs committee to institute a civil administration in both these regions under the sovereignty of Nanking but with a good measure of

autonomy in local affairs. There is a definite clash of policy here between Nanking and Moscow.[1]

Notwithstanding the apparent elimination of all Soviet influence from China as a whole, it is not at all improbable that relations may later be resumed with Russia — after the issue over the Chinese Eastern Railway shall have been settled — and an attempt be made, as Japan is making it, to be friendly with the Soviet Union as a state, while hostile to communism. In fact, such has been the policy of certain of the Chinese leaders. But China would find it much more difficult to carry out such a policy than does Japan.

[1] Count Carlo Sforza, "Imperialistic Russia in China," *Foreign Affairs*, October, 1927, p. 67–74; Weigh, Ken-shen, *Russo-Chinese Diplomacy*, Chap. IV, V, VII; *China Year Book, 1928*, p. 373–386.

III. MANCHURIA

Manchuria is the danger zone of the Far East. It is the meeting point of the ambitions of three states, China, Japan and the Soviet Union, each of which has interests and policies in this great region which are in conflict with those of the other two.

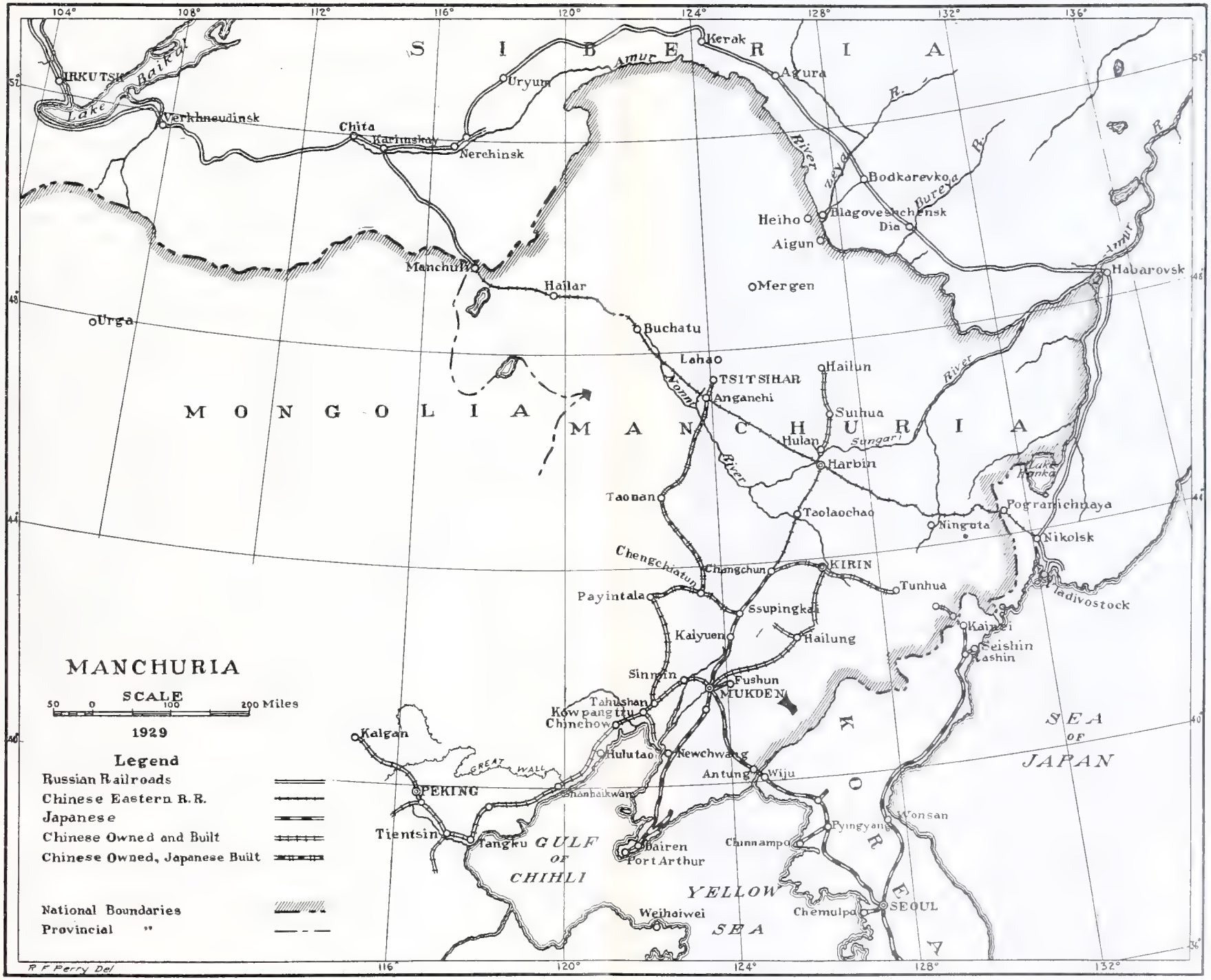
Manchuria is a large, wealthy, fertile area only partially developed and settled. In size it is nearly as large as France and Germany combined. Its wealth consists of valuable natural resources, minerals and timber, but especially extensive deposits of coal and a fair supply of iron ore. It is well adapted for agricultural produce; in many respects it is similar to the great grain sections of our own Northwest. Especially notable has been the development of the soya bean; Manchuria now raises over 200,000,000 bushels of beans annually, or 52% of the world's supply.[1]

Its trade with other parts of China and with foreign countries has risen in 20 years from 52,000,000 Haikwan taels in 1907 to over 676,000,000 in 1927.[2] Most remarkable has been the large recent immigration. During the Manchu period the central and northern parts of the region were largely unsettled, but in the past few years an immense immigration has been pouring into the country which in 1927 numbered over 1,178,000 persons. The total population in 1927 was variously estimated from 23,000,000 to 27,500,000.[3] It was stated by some of the experts at the Institute of Politics at Williamstown in 1928 that Manchuria could support a Chinese population of 100,000,000 on the same standard of living as that existing

[1] South Manchuria Railway Company, *Report on Progress in Manchuria, 1907–1928*, p. 115–117.

[2] *Ibid.*, p. 102–103.

[3] *Ibid.*, p. 1, 11–14; *China Year Book, 1928*, p. 3.


MANCHURIA
SCALE
50 0 100 200 Miles
1929
Legend
Russian Railroads
Chinese Eastern R.R.
Japanese
Chinese Owned and Built
Chinese Owned, Japanese Built
National Boundaries
Provincial "
SIBERIA
MONGOLIA
MANCHURIA
KOREA
SEA OF JAPAN
YELLOW SEA
GULF OF CHIHLI
GREAT WALL
IRKUTSK
Lake Baikal
Verkhneudinsk
Chita
Karimskaya
Nerchinsk
Uryum
Kerak
Aigura
Amur
Amur River
Zeya R.
Bureya R.
Bodkarevkoya
Blagoveshchensk
Heiho
Dia
Aigun
Mergen
Habarovsk
Manchuli
Hailar
Urga
Buchatu
Lahao
TSITSIHAR
Anganchi
Nonni River
Hailun
Suihua
Hulan
Sungari River
Harbin
Taonan
Taolaochao
Ninguta
Pogranichnaya
Nikolsk
Lake Ponka
Chengchiatun
Changchun
KIRIN
Tunhua
Vladivostock
Payintala
Ssupingkai
Kaiyuen
Hailung
Kainei
Seishin
Rashin
Sinmin
Fushun
MUKDEN
Tahushan
Kowpangtzu
Chinchow
Kalgan
Hulutao
Newchwang
Antung
Wiju
PEKING
Shanhaikwan
Tientsin
Tangku
Dairen
Port Arthur
Chinnampo
Pyingyang
Wonsan
Weihaiwei
Chemulpo
SEOUL
R. F. Perry Del.

in other parts of China. There are certainly great possibilities for further development.

Manchuria is admittedly a part of China although for some years it has enjoyed and still enjoys a large measure of actual autonomy. Both Russia and Japan, however, have been granted by treaty exceptional and valuable privileges within it. The most important of these have been railroad concessions, which in turn have led to further grants of various kinds, and for a time to the partition of the country into Russian and Japanese spheres of interest. The railroad history in brief is that in 1896 China granted to Russia the right to build a line across central Manchuria to be a part of the great trans-Siberian system. In 1898, an additional concession gave Russia the right to extend this road south from Harbin to Port Arthur, and granted Port Arthur and the adjoining land on the Liaotung Peninsula by lease for 25 years. After the Russo-Japanese War, Russia's rights in South Manchuria including the leasehold and the railroad from Port Arthur as far north as Changchun were transferred to Japan. By subsequent treaties Russia and Japan agreed between themselves to consider Manchuria as divided into spheres of interest, the central and northern part being assigned to Russia and the southern part to Japan. But since the World War these agreements have ceased to be operative. More recently, with the rise of the Nationalist movement, China has been trying to regain these exceptional concessions from both the Soviet Union and Japan.

But the present complicated situation in Manchuria necessitates a much more detailed account of the relations (1) between the Soviet Union and China, (2) between the Soviet Union and Japan, and (3) between Japan and China.

Sino-Soviet Relations

The relations between Russia and China in Manchuria have for over 30 years centered in the Chinese Eastern Railway. The acute situation which seemed to develop so suddenly in July, 1929, goes back to May, 1896, when

in the secret treaty of alliance between China and Russia, sometimes termed the "Li-Lobanov treaty," the Chinese Government promised to permit the Russo-Chinese (later Russo-Asiatic) Bank to construct a railroad across central Manchuria in the direction of Vladivostok,[1] as an essential link in the Russian trans-Siberian line. The Russo-Chinese Bank had already been chartered by the Russian Government, December 22, 1895. Although a Russian joint-stock company, French financial groups invested heavily in it and it was stated in 1927 that the French interests amounted to 60%.[2] It was in large measure a governmental agency; the Russian minister of finance had general supervision of the operations of the bank and the confirmation of the nomination of the directors.[3]

With this Russo-Chinese Bank the Chinese Government signed a contract, September 8, 1896, granting it the right to construct and operate the railroad across Manchuria. The contract provided that the bank should establish for this purpose a new company under the name of the Chinese Eastern Railway Company. To it the Chinese Government transferred "the complete and exclusive right to operate the line on its own account and risk . . . [for a period of] 80 years from the day on which the line is finished and traffic is in operation. This period having elapsed, the line with all its appurtenances will pass free of charge to the Chinese Government." Since the line was opened in 1903, it will revert to China in accordance with the terms of the contract in 1983. After 36 years from its completion, moreover, "the Chinese Government will have the right to buy back this line upon repaying in full all the capital involved as well as all the debts contracted for this line plus accrued interest. . . . In no case may the Chinese Government enter into possession of this line before the appropriate sum is deposited in the Russian State Bank." In 1939, therefore, the Chinese Govern-

[1] *Conference on the Limitation of Armament*, p. 1414.

[2] Toynbee, *op. cit.*, 1925, Vol. II, p. 338; Weigh, Ken-shen, *Russo-Chinese Diplomacy*, p. 56.

[3] *Manchuria: Treaties and Agreements*, p. 17–27.

ment will have the legal right to purchase the Chinese Eastern Railway. The shares of the company could be acquired only by Chinese or Russian subjects, although as a matter of fact no Chinese did acquire any of them. It was also stated that the company might hold "the lands actually necessary for the construction, operation and protection of the line;" and it was stipulated that "the company will have the absolute and exclusive right of administration of its lands," a provision which was used by Russia to justify its political control of the whole railroad zone. To assist in the construction of the line, the Chinese Government paid to the bank 5,000,000 Kuping taels, with the promise that it should share in proportion to this payment in the profits and losses of the bank; and that a sum of the same amount should be returned to China "the day when the line is finished and the traffic is in operation." [1]

The Chinese Eastern Railway Company was then formed as a Russian joint-stock company and a copy of its statutes, or charter, was confirmed by the Russian Government, December 16, 1896. Its seal, however, was given by the Chinese Government, which also had the right to name the president of the company. The share capital was fixed at 5,000,000 nominal credit rubles divided into 1,000 shares all of which the Russo-Asiatic Bank claims to own. The intimate connection between the Chinese Eastern Railway Company and the Russian Government is shown by the fact that the latter guaranteed the interest on and amortization of the bonds of the company, and paid its early deficits out of the Russian Imperial Treasury.[2]

From the building of the railway until the Soviets came into power in Russia the bank and the Chinese Eastern Railway Company functioned as agencies of the Russian Government. In 1918, however, the Soviets nationalized all banks in Russia, including the Russo-

[1] *Manchuria: Treaties and Agreements*, p. 13–17.
[2] *Ibid.*, p. 34–39.

Asiatic. Since this action injured the French stockholders and bondholders, the French government permitted the reorganization of the bank to be effected in Paris. The reorganized bank was naturally hostile to the Soviet régime, but it definitely recognized that the actual ownership of the Chinese Eastern Railway was vested in the *de jure* Russian Government. A letter from the Russo-Asiatic Bank to the Russian ambassador in Paris, March 18, 1918, read in part:

> . . . as soon as there shall be formed and recognized by the Allies, a lawful Government, the rights in the Chinese Eastern Railway belonging to it, shall again revert to such Government automatically, *i.e.*, when the Russian Government shall demand it.

An agreement was signed October 2, 1920, between the Chinese Government and this reorganized anti-Soviet Russo-Asiatic Bank, whose head office was for the time being in Paris, by which China assumed "provisionally, pending such arrangement concerning the railway as the Government may reach with the Russian Government that may be recognized by China, the supreme control exercised over the said railway by virtue of the contract and of the regulations in force." [1] This action was protested by the Soviet Government which was not recognized by China at the time.

At the Washington Conference the status and the physical condition of the Chinese Eastern Railway were considered. A subcommittee of technical advisers on this road reported:

> The necessary funds for its construction were furnished by the Russian Government and it was built under the direction and supervision of that Government acting through the Chinese Eastern Railway Company. The railway is in effect the property of the Russian Government. China has certain ultimate reversionary rights which are provided for in the original contract of 1896.[2]

[1] *Manchuria: Treaties and Agreements*, p. 210–220.

[2] *Conference on the Limitation of Armament*, p. 1376.

The conference regarded China's supervisory control in the nature of a trust pending the re-establishment of a generally recognized Russian Government, and all the conference powers except China voted that they reserved "the right to insist hereafter upon the responsibility of China for the performance or nonperformance of the obligations towards the foreign stockholders, bondholders and creditors of the Chinese Eastern Railway Company." [1]

The Chinese Eastern Railway was under the supervision of an Inter-Allied committee from January, 1919, to October, 1922. But the only significance of this supervision upon more recent controversies is the fact that certain of the Governments, including those of Japan and the United States, advanced large sums to the railway which were later made the basis of claims against the company.

The present status of the railway as between China and the Soviet Union rests upon the agreement on general principles, and the agreement for the provisional management of the Chinese Eastern Railway signed at Peking, May 31, 1924.[2] These documents provide that the railway "is a purely commercial enterprise" which is to have direct control of the business operations of the line, but that Chinese authorities are to have jurisdiction over "judicial matters, matters relating to civil administration, military administration, police, municipal government, taxation and land property." It is stipulated that the Soviet Union "agrees to the redemption by the Government of the Republic of China with Chinese capital of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the railway," the details of the transfer to be arranged at the conference scheduled to be held shortly between the two states. The management of the railway is divided as equally as possible between the Russians and Chinese; and the board of directors consists of 10 members, five

[1] *Conference on the Limitation of Armaments*, p. 1658.

[2] With these might be included the Mukden agreement of September 20, 1924, although its legal status is doubtful. See *infra*, Appendix VII, 2*b*.

Chinese, including the president, and five Russians. Nationals of the two countries are to be employed on the road in accordance with the principle of equal representation. The manager of the road, however, who is the most important official, is to be a Russian. Of particular importance as it has turned out is Art. VI of the agreement on general principles, by which each state pledges itself against propaganda in the territory of the other:

> The Governments of the two contracting parties mutually pledge themselves not to permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.
>
> The Governments of the two contracting powers further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party.[1]

These agreements were made with the Chinese Government at Peking. But, since Manchuria at the time was under the practically autonomous rule of Marshal Chang Tso-lin who did not recognize Peking, the Soviet Union made a separate agreement with him September 20, 1924. This was in the main similar to the agreements made with Peking but there were a few differences, particularly in the article which stated that the Chinese Eastern Railway was to be returned to China without payment at the end of 60 years.[2] For the purposes of the impending Sino-Soviet conference, this Mukden agreement by a Chinese presidential mandate was made to form an annex to the Peking agreements of May 31, 1924 — provided the mandate could be interpreted as legally having that effect.[3]

Vigorous protests were registered against these railway agreements. Japan and the United States protested because their interests in the road based on their advances

[1] For these agreements and accompanying documents, see League of Nations, *Treaty Series*, Vol. XXXVII, p. 175, 193; *China Year Book, 1924*, p. 1192–1200.

[2] *China Year Book, 1925*, p. 797–800.

[3] *China Year Book, 1926*, p. 1098.

of money and materials had not been recognized. China replied that claims such as these would not be affected by the new agreement with the Soviet Union.[1] France claimed that the predominance of French capital in the Russo-Asiatic Bank gave it a contingent interest in the railway, but the Chinese Government declared that the bank is a purely Russian company and not subject to French protection. More significant, possibly, was the protest of the Russo-Asiatic Bank that its rights as owner of all the stock of the Chinese Eastern Railway had not been respected.[2] A notable feature of the agreements of 1924 is that they were made, not with the Russo-Asiatic Bank as in 1896 and 1920, but with the Soviet Government. In the judgment of some, the Soviet Union and not the bank is now recognized as owner of the railway.[3]

For the past five years since 1924 there has been a struggle between the Soviet and the Chinese Governments for actual control of the railway. At first the Russians gained the advantage. After the directors of the railway company according to the terms of the agreement of 1924 had elected a Russian general manager, the Russian members consistently absented themselves from the meetings of the board, thus preventing a quorum (seven) and leaving practically full control of the road in the hands of their general manager. This situation remained for some time, since the conference which was to meet a month after the signing of the agreement of May 31, 1924, did not convene until August 26, 1925, and finally adjourned without coming to any permanent settlement of the railway problem.[4] Serious difficulties developed between the Russian manager and the local Chinese authorities. In January, 1926, Mr. Ivanov, the manager, refused permission to Marshal Chang Tso-lin's soldiers to travel on the line without prepayment

[1] For a discussion of the validity of these protests, see Frederick Deane, "The Chinese Eastern Railway," *Foreign Affairs*, September, 1924, p. 147.

[2] Good accounts of this tangled history may be found in Willoughby, *op. cit.*, Vol. I, Chap. XV; Toynbee, *op. cit.*, 1925, Vol. II, p. 337–346.

[3] Sforza, Count Carlo, *op. cit.*, p. 67; Willoughby, *op. cit.*, Vol. I, p. 446.

[4] For the conference, see *China Year Book, 1926*, p. 1096–1101.

of fares as had been customary. Chang Tso-lin then had him arrested. The Soviet Government replied by a three-day ultimatum and Mr. Ivanov was released.[1]

More recently the Chinese have been able to take over the control of important activities of the Chinese Eastern Railway. In February, 1926, they abolished the Municipal Council in the Russian city, or section, of Harbin and instituted a Chinese administration. Later they took possession of the river fleet of the railway company, took over certain of the schools which it had maintained in the railway zone and forced or persuaded the Russians to make frequent divisions of the net income of the line which is large — this money can hardly be termed profits, since no interest is paid on the bonds or dividends on the stocks. In the fall of 1927 in Manchuria it was a common query in conversation whether the Chinese authorities would take the final step and seize complete control of the entire railway; certainly some of the Chinese were already at that time looking forward to this development as a proper and necessary movement in the recovery of their sovereign rights.[2]

The occasion which led China to take over the administration of the Chinese Eastern Railway system was the communist propaganda carried on by Russian officials and railway workers in Manchuria. On May 27, 1929, Chinese police raided the Soviet consulate general in Harbin and found and arrested over 80 persons who were attending a propaganda conference of the Third Internationale (Comintern). According to the official Chinese statement, 42 were members of the staffs of various Soviet consulates, including the Soviet consuls general at both Harbin and Mukden. Thirty-nine were important officials of the Chinese Eastern Railway and of Soviet organizations in Manchuria.[3] The Soviet Government on May 31 pro-

[1] For the correspondence over this issue, see *ibid.*, p. 1101–1105.

[2] Certain of these developments are discussed in Toynbee, *op. cit.*, 1926, p. 280–283.

[3] "A communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war," August 21, 1929; *New York Times*, August 22, 1929.

tested against the raid, the arrest of the Russians and the seizure of documents.[1]

The climax came July 10 and 11 when the Chinese authorities dismissed the Russian general manager, the five directors and all other important officials; arrested many of the Russians, and closed all Soviet organizations. The Chinese president of the board of directors of the railway issued a statement explaining that this action was due to the repeated and long-continued violation by the Soviet Union of the agreement of 1924, especially to the communist propaganda carried on contrary to Soviet pledges in the agreement. He said:

> Moreover Soviet communist propaganda through all agencies connected with the railway is proved by documentary evidence seized in the recent raid of the Soviet consulate general in Harbin. Consequently I am constrained to take the present drastic measures to safeguard China's interests in the Chinese Eastern Railway.[2]

The Soviet Government sent a three-day ultimatum, July 13, to the Chinese Government demanding that the Chinese authorities should at once cancel all arbitrary orders regarding the Chinese Eastern Railway, release the Soviet citizens who had been arrested and cease all persecution of Soviet citizens and institutions; it proposed that the two Governments should call a conference immediately to settle all questions regarding the railway. The note maintained that the acts of the Chinese were clearly illegal; "the very fact of the issuance by the *tupan* [the Chinese president of the board of directors] of the one-sided order over his single signature and without co-ordinating his action either with the board of directors or with his assistant who is a Soviet citizen makes this act of his obviously unlawful, not to mention the

[1] *Week in China*, June 8, 1929, Vol. XII, p. 472–473; *North China Herald*, June 8, 1929, p. 382; *L'Europe nouvelle*, August 3, 1929.

[2] *New York Times*, July 12, 1929.

fact that this absolutely violates the principle of parity established by the Soviet-Chinese agreements." [1]

In reply the Chinese Government at Nanking on July 17 defended what had been done regarding the railway on the ground that the Soviet authorities had not carried out faithfully the provisions of the agreement of 1924 especially as to propaganda; demanded that the Soviet Government should give adequate protection to Chinese nationals in Russia and should release all Chinese imprisoned in that country, who were estimated to number 1,000; and declared that a Chinese plenipotentiary was leaving Nanking for Moscow to discuss all pending matters.[2]

The Soviet Government on July 18 characterized this reply as "unsatisfactory in content and hypocritical in tone," and declared that the real object of the violent acts of the Chinese Government was manifestly to seize control of the Chinese Eastern Railway. It therefore broke off the few remaining diplomatic and consular relations with China, recalled all Soviet railway officials, closed the border to railway communication and ordered the Chinese diplomatic and consular officials to leave the territory of the Soviet Union.[3]

Informal negotiations, however, were soon initiated between the Soviet and Chinese officials, but the Chinese Government refused to accede to the Soviet demand that the Chinese Eastern Railway be restored to its former status before the convening of a formal conference.

A carefully prepared statement of the Chinese case was communicated on August 21 to all states which signed the treaty for the renunciation of war. It said in part:

A thorough examination of the persons arrested and the documents discovered in the premises [of the Soviet consulate general, May 27] revealed the fact that the Union of Soviet Socialist Re-

[1] *New York Times*, July 15, 1929; *L'Europe nouvelle*, August 3, 1929, p. 1078; *Week in China*, July 20, 1929, Vol. XII, p. 566.

[2] *New York Times*, July 17, 1929; *L'Europe nouvelle, op. cit.*, p. 108.

[3] *New York Times*, July 18, 1929; *L'Europe nouvelle, op. cit.*, p. 1081; *Week in China*, July 20, 1929, Vol. XII, p. 572.

publics was not only conducting communist propaganda in China but was actually pushing forward its secret plans to nullify China's unification, to overthrow the Chinese Government, to organize secret forces for destroying the Chinese Eastern Railway and to carry out a policy of wholesale assassinations and thereby bring about a world-wide revolution.

What is more, the Chinese Eastern Railway and the Soviet state enterprises and organizations were being utilized as bases for carrying out the nefarious schemes of the Union of Soviet Socialist Republics.

After quoting Art. VI of the Sino-Soviet agreement of 1924 by which each of the two Governments pledges itself not to carry on propaganda against the other, the communication continued:

The facts being as above stated, it is clear that the Union of Soviet Socialist Republics has violated the entire treaty stipulation.

The Chinese Government in conclusion stated that it would abide by its obligations under the treaty for the renunciation of war, and that it was "ready at any time within the limits of possibility to discuss and settle with the Soviet Government the disputes" which had arisen over the Chinese Eastern Railway.[1]

"The status of the Chinese Eastern," as one of the writers on this subject has expressed it, is "one of the most involved problems of the Far East."[2] At the Washington Conference, as has been pointed out, the experts reported that "the railway is in effect the property of the Russian Government." Yet this contention is challenged by the Russo-Asiatic Bank which maintains that from a strictly legal point of view the title to the railway is vested in a private company, the Chinese Eastern Railway Company, which in turn is controlled by the bank through the ownership of all its stock. While the stock may technically be carried on the books of the bank, there is some reason to

[1] A communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war, *New York Times*, August 22 ,1929.

[2] Deane, Frederick, *op. cit.*, p. 147.

believe that it has actually been owned by, or under the control of, the Russian Government. Certainly the Chinese Eastern Railway Company was merely the agent of the Russian Government. But the bank has been confiscated by decree of the Soviet Government, a decree enforced within Soviet jurisdiction. The bank, however, claims to have removed its headquarters to Paris and has gone into liquidation. For some time the railway company has been paying no dividends on the stock, which is claimed by the Russo-Asiatic Bank, nor interest on the bonds variously estimated to amount to around 400,000,000 gold rubles, nearly all of which are held by the Soviet Government. China has possessed certain reversionary rights from the beginning — the right of complete ownership after 80 years, and of purchase after 36 years — and additional rights by the agreement of 1924, the validity of which is contested by the Russo-Asiatic Bank.

Soviet-Japanese Relations

Soviet-Japanese relations in Manchuria have fluctuated between war and close military alliance. At present there are no serious issues between the two states but such issues might easily develop.

Japan fought the war of 1904–1905 in part to prevent Russia from absorbing Manchuria. But after obtaining the Liaotung leasehold and the railroad concessions in South Manchuria, Japan signed with Russia a series of treaties in 1907, 1910, 1912 and 1916, by which the two powers divided Manchuria into spheres of interest, and promised to support each other by military force, if necessary, in the maintenance of their respective claims.[1] After the World War Japan, however, adopted a policy of railroad expansion in cooperation with the Chinese in the central and northern parts of Manchuria, the region which was formerly recognized as a Russian sphere. The Soviet

[1] For the texts of these treaties including certain of the secret agreements, see *Manchuria: Treaties and Agreements*, p. 116–117, 141–143, 183–184.

Government protested against the building of certain of these railroad lines, particularly the one extending to Anganchi (near Tsitsihar) on the Chinese Eastern Railway. It proposed to Japan in 1926 that the two powers should revive their former spheres of interest, but the Japanese authorities are said to have replied that spheres of interest in China were done away with at the Washington Conference.[1] In the early part of 1928, according to certain Manchurian newspapers, an agreement regarding their Manchurian interests was made by the Soviet and Japanese Governments which was brought about by the late Count Goto during his visit to Moscow. Although it has been authoritatively denied that any agreement was made, there are some who believe that the basis exists for such an arrangement, Japan agreeing to respect Soviet claims in Manchuria in exchange for Soviet concessions to Japan in Siberia and the maritime provinces.

Any event which threatens to disturb the peace in Manchuria is naturally of particular concern to Japan due to its own great interests in the country, and may lead to action of some sort by the Japanese Government. The seizure of the Chinese Eastern Railway by the Chinese authorities was frequently discussed as a possibility by Japanese during the past couple of years, and the dominant opinion seemed to be that such a step would be unfortunate from the Japanese point of view.

At present Japan has a free hand in Manchuria so far as the Soviets are concerned. But some of the thoughtful Japanese look forward with some apprehension to the time, in one or two decades, when Russia may "come back" in strength and in nationalistic ambitions. They realize that any Russian Government with an imperialistic program would have plans in Manchuria which as in 1904–1905 would conflict with vital intérests of Japan.

[1] Toynbee, *op. cit.*, 1925, p. 256.

Sino-Japanese Relations

Fundamental Divergence in Viewpoint

The most difficult and the most vital issue in Manchuria — and in the entire Far East — is that between China and Japan. It involves a fundamental difference of viewpoint as well as a large number of concrete, perplexing problems. This fundamental divergence, moreover, is intensified by strong national sentiment on both sides.

To the Chinese the main issue is: "Shall Manchuria, a part of our homeland, be Chinese or Japanese?" They believe that Japan is trying to take part at least of the country from them. They are determined to prevent the further expansion of Japan's interests in Manchuria and to regain the concessions already granted. A typical view was expressed by one of the foremost Chinese in Peking some months ago when he said, "we are too weak to do much now but it may well mean war in the days of our children."

To the Japanese the issue is: "Shall the rights won in South Manchuria by great national sacrifices in two wars, and now held rightfully and legally, be respected or be seized from us?" They do not forget that the battlefields of the Russo-Japanese War lie from Port Arthur to Mukden along the route of the South Manchuria Railway. To interpret their attitude they sometimes say, "the South Manchuria Railway is our Panama Canal," and "Japanese have the same feeling toward South Manchuria as Americans would have toward Panama if they had fought their greatest national war to obtain it." Some Americans, therefore, believe that in national sentiment South Manchuria is to Japan what both Panama and Gettysburg are to America.

Japan's vested interests in Manchuria comprise the lease of the Liaotung Peninsula, the South Manchuria Railway and other economic and financial enterprises. The leased territory, which contains Port Arthur and Dairen, although but a very small part of Manchuria as a whole,

comprises an area slightly larger than the state of Rhode Island. Originally granted to Russia for 25 years, it was transferred to Japan in 1905. In 1915 the lease was extended to 99 years. The railway owns and operates lines totaling 695 miles. By the terms of the original Russian contract with China, the road would revert to China after 80 years from its opening to traffic, but by a treaty in 1915 it was stipulated that the date for its restoration should be the year 2002.[1]

The South Manchuria Railway Company is controlled by the Japanese Government through its ownership of 50% of the stock and through the appointment of the leading officials of the company by the administration in power in Tokyo. The total capital investment made by Japanese in Manchuria, according to the *Report on Progress in Manchuria, 1907–1928*, recently published by the South Manchuria Railway, amounts to 1,563,000,000 yen; and if to this be added "the Government property owned by the Kwantung Government (Japanese leased territory) and the Japanese army, the annual grant from the home Government for the last 21 years, private property owned by Japanese residents in Manchuria, etc., the total investment of Japan in Manchuria to-day amounts to 2,006,800,000 yen." That is approximately $1,000,000,000 (gold).[2] The railway, the great port of Dairen, the company's towns in the railway zone, its mines, factories, hotels and other enterprises are administered on an exceptionally high plane of order and efficiency.

Japan naturally wishes to maintain these vested interests and also the opportunity to cooperate with the Chinese in the further economic development of the whole region. In these desires there appears to be substantial unanimity in Japan, notwithstanding differences of view regarding the details of the Manchurian policy. Mr. Hirosi Saito, Japanese consul general at New York, stated at the In-

[1] For original contract, 1898, see MacMurray, *op. cit.*, Vol. I, p. 119; for transfer to Japan, *op. cit.*, Vol. I, p. 550 and 552; for extension of the leases, *op. cit.*, Vol. II, p. 1220.

[2] *Report on Progress in Manchuria, 1907–1928*, p. 47.

stitute of Politics at Williamstown 1928, in a prepared address:

> It is, however, to be unmistakably understood that there is a fundamental unanimity of opinion throughout Japan that it is absolutely necessary to safeguard the Japanese interests and rights and trade in Manchuria without which her national economic life would really collapse.[1]

Practically all Japanese stress the vital importance to them of their economic interests in Manchuria. Many of them, moreover, feel that under existing conditions in China, it is necessary to maintain for the time being their political interests as well; while some point to the strategic value of Manchuria in case of serious difficulties with the Soviet Union. In the present situation, certainly, Japanese armies could reach central, if not northwestern, Manchuria before the Russians. All responsible leaders, however, insist that Japan desires neither to seize territory in Manchuria, nor to make of it a protectorate. The Japanese attitude may be judged from statements of their representative leaders.

Baron Tanaka while premier said:

> Since Manchuria and Mongolia, particularly the three eastern provinces, have an important bearing upon the national defense and existence of this country, we must devote especial attention to those regions. We feel, moreover, particular responsibility as a neighbor for making them suitable for the residence of both Japanese and foreigners by the preservation of peace and their economic development.[2]

Baron Shidehara, now minister for foreign affairs, a political opponent of Baron Tanaka and the spokesman

[1] See also statement of Mr. K. K. Kawakami in "Manchuria; The Crux of Chino-Japanese Relations," *Foreign Affairs*, April, 1928, p. 381:

"Rightly or wrongly, the Japanese with the exception of a small minority are agreed that those interests especially in Manchuria, can not safely be relinquished. If those interests can be preserved in a friendly way, well and good, but if friendly policy fails to protect them, some other means must be devised. That, in brief, is the prevailing sentiment. No cabinet which ignores this sentiment can long withstand public pressure."

[2] Statement at the Oriental conference, July 7, 1927. See Appendix.

of the "friendship policy" toward China, said in October, 1928:

Japan's rights and interests in the three eastern provinces are deeply rooted in history. . . . They have been built up with heavy sacrifices and tremendous efforts. As has often been proclaimed to the world, they have close bearings on the national existence of Japan. No matter what form of government may be adopted in the three eastern provinces these rights and interests must remain absolutely unimpaired.[1]

Mr. M. Hanihara, former ambassador at Washington, wrote recently in an article in the *Japanese Diplomatic Review:*

Japan has very great interests in Manchuria and those interests were bought at extraordinary sacrifices of blood and money, and the maintenance of these especially important interests must be a guiding principle of Japan's foreign policy. . . . However, Manchuria is neither a territory nor a protectorate of Japan and Japan has not an intention, as has frequently been manifested, of making it her territory or protectorate.[2]

Mr. M. Zumoto, a former member of the Diet, a leader of the liberal journalists of Japan and the Japanese spokesman at the Institute of Politics, Williamstown, and at the Institute of International Relations, Seattle, 1928, explained that Japan's interests in Manchuria are not merely economic, "they are also political and strategic," and added:

To be entirely frank, if China wishes to reduce our interests in Manchuria to an economic basis divorced from all military or political implications, China has the remedy in her own hands and China alone has it. It is not in Japan's capacity to accomplish that most desirable end.

The attainment of China's wish is altogether conditioned upon her ability, first, to establish a stable and efficient government; secondly, to convince us of her capacity to defend her territory

[1] *Japan Weekly Chronicle*, November 8, 1929, p. 580.

[2] *Week in China*, May 11, 1929, Vol. XII, p. 355.

against foreign enemies; and thirdly, to give us sufficient guaranty of her willingness and efficiency to guard our interests against the menace of the Red infection. When these conditions are fulfilled our interests in Manchuria will automatically become exclusively economic in nature. In the meanwhile, whenever danger threatens her position in Manchuria, Japan will never fail to take adequate steps for the protection of her nationals.

On this point the whole nation is united irrespective of class or party.[1]

But the Chinese leaders do not recognize Japan's present position in Manchuria as justified either morally or legally; to them it seems that Japan is keeping property and rights which belong to China. The view of Nationalist China was frankly expressed during the summer of 1928 at the institutes at Williamstown and Seattle by Dr. C. C. Wu, now Chinese minister at Washington and formerly minister for foreign affairs of the Nationalist Government at Nanking. He said:

Japan is now exercising practically absolute control over a certain portion of Manchuria — civil, political and military control. . . . Manchuria is Chinese territory, 100% Chinese territory. . . .

The Japanese claims to Manchuria are familiar to us and are reducible to three types:

(1) Military necessity. For example, that Manchuria is the first line of defense of Japan. . . . Why build a fence in your neighbor's yard to protect your own garden?

(2) Japan points out that Manchuria would have been lost by China anyway to Russia and that Japan saved it for the Chinese so that Japan is entitled to stay there and to have the gratitude of China! If my watch is to be stolen I am not greatly concerned which of two thieves has possession of it and I am not particularly grateful to the thief who keeps it from the other.

(3) The third claim is based upon economic necessity. Now, the economic interests of Japan in Manchuria are worth considering but under a condition precedent. If Japan accepts the proposition that their desire to develop the resources of Manchuria shall not be combined with a desire to dominate it politically, I,

[1] Martin, C. E., and Leebrick, K. C., *The Pacific Area*, p. 63–64.

for one, believe we can talk business. . . . [But] our Japanese neighbors want more than economic development, they want political control.[1]

The Concrete Issues

This difference in viewpoint is also shown in a number of concrete issues, particularly as to the validity of the extensions to 99 years of the lease of the Liaotung Peninsula and the concession to the South Manchuria Railway; the treaty right of the Japanese to lease land in South Manchuria; the alleged right of Japan to maintain railway guards; and a tangle of conflicting claims as to new railroads.

The Chinese maintain that the treaty of 1915[2] extending the lease and the concession to 99 years is null and void, since it was made under threat of force in time of peace without any *quid pro quo* and was not ratified by the Chinese Parliament according to the Chinese constitution. The Japanese maintain that although "it is evident that no nation can have given ready consent to cessions of its territorial or other rights of importance," yet all the Sino-Japanese treaties of 1915 are valid since they were "formally signed and sealed by the duly authorized representatives of the two Governments, and . . . the exchange of ratifications was effected in conformity with established international usages."[3]

The original lease of the Liaotung Peninsula would have expired in 1923. Shortly before the date arrived, the Chinese Government sent a note to the Japanese Government dated March 10, 1923, stating that the treaties of 1915 were void and asking the Japanese Government, in view of the early expiration of the original lease, to appoint a day for the discussion of the transfer of the administration of Dairen and Port Arthur to China. The Japanese Government replied that the lease had been legally extended to, and would be in force for, 99 years.[4]

[1] Martin, C. E., and Leebrick, K. C., *The Pacific Area*, p. 6–7.

[2] MacMurray, *op. cit.*, Vol. II, p. 1220.

[3] *Conference on the Limitation of Armament*, p. 324–338; Willoughby, *op. cit.*, Vol. I, Chap. VIII.

[4] Willoughby, *op. cit.*, Vol. I, p. 242–243.

The Japanese claim the right to lease land in South Manchuria, a right granted to them in the treaties of 1915, but the Chinese authorities refuse the necessary permits.

Japan maintains railway guards along the South Manchuria system but China insists that there is no treaty right for this privilege. Russia formerly maintained railway guards, basing its right upon a clause in the contract between China and the Russo-Chinese Bank which reads, "the company (Chinese Eastern Railway Company) will have the absolute and exclusive right of administration of its lands" [1] — a clause which the Chinese insist grants no such privilege. In the Portsmouth treaty, 1905, Russia and Japan reserved the right to maintain railway guards "not to exceed 15 men per kilometer," which would give Japan the right — so far as the Soviet Union is concerned — to keep in South Manchuria a total of about 15,000 men. China states that it did not give its assent to the particular provisions of the Russo-Japanese treaty regarding railway guards.[2] However, in the supplementary agreement between China and Japan, December 22, 1905, is the provision upon which Japan bases its right to maintain these troops:

> The Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards or in case that other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquillity shall have been reestablished in Manchuria and China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.[3]

China insists that she is now capable of affording the full protection demanded; Japan denies it and maintains the railway guards.[4]

[1] MacMurray, *op. cit.*, Vol. I, p. 76.

[2] *Ibid.*, Vol. I, p. 526.

[3] *Ibid.*, Vol. I, p. 551.

[4] Willoughby, *op. cit.*, Chap. XXXIII; *Conference on the Limitation of Armament*, p. 1004–1008, 1088–1100.

Railroad Controversies

Disputes over railroad expansion are the most important of the many concrete differences which disturb the relations of Japan and China in Manchuria.[1] The issue is whether Japanese are to participate with Chinese in building the new railroads or whether Chinese are to build all these lines independently. Japan is not attempting to extend the South Manchuria Railway; the difficulty relates entirely to new railroad development.

Japanese interests have had a large part in building new lines both to the east and the west of the main South Manchuria system. To the west they have shared in constructing new railroads which start from the South Manchuria main line at Ssupingkai, south of Changchun, and extend in a northwesterly direction via Chengchiatun and Taonan to Anganchi on the Chinese Eastern Railway.[2] These lines were built in three sections, at three different times and under various contracts with Japanese interests. To the east starting at Changchun two connecting roads now extend over 200 miles in the direction of the Korean border. The second section, from Kirin to Tunhua, was opened to traffic October 10, 1928.[3] In each case a Chinese company has the legal ownership of the railroad, but the extent of Japanese participation in these various enterprises has varied. In general, some Japanese interest — usually the South Manchuria Railway Company — has advanced the money, built the road on contract, obtained the privilege of being purchasing agent and, after the completed line has been handed over to the Chinese company, has retained loans secured on the road and also the right of appointing a number of Japanese officials on the railway staff. The Chinese are now operating all of these lines with the single exception of the

[1] For an authoritative Japanese account of the railroad situation in Manchuria, see South Manchuria Railway, *Report on Progress in Manchuria, 1907–1928.*

[2] A connecting line now extends north of the Chinese Eastern Railway to the important city of Tsitsihar.

[3] *Manchuria Daily News*, Monthly Supplement, November 1, 1928.

Changchun-Kirin section which in 1917 was turned over to the South Manchuria Railway Company to administer under contract for a period of 30 years.[1]

These new lines are a distinct advantage to the South Manchuria Railway Company as well as to other Japanese interests, for they open and help to develop large areas of the country. Since these roads have the standard gauge, narrower than the Russian Chinese Eastern but the same as the South Manchuria, they are direct feeders for the latter line. The new roads mean more freight for the South Manchuria system. Japanese participation in financing these undertakings brings the same general advantage which normally comes from taking part in the economic development of a new, rich country. Other foreign interests have coveted similar privileges in Manchuria in the past, especially British and American banking groups from 1905 to 1910.[2]

The Chinese are refusing, however, to continue this system of cooperation with the Japanese and are building a number of new lines of their own with Chinese capital and under Chinese management. For some years they have had a trunk line from Peking to Mukden which is entirely Chinese though financed in considerable part with British capital. Recently over 550 miles of new lines, exclusively Chinese, have been built. Other roads are under construction and many are projected. There has also been considerable discussion of developing a port at Hulutao on the Chinese Railway from Mukden to Tienstin in order to have a Chinese seaport with which to compete with the Japanese leased port of Dairen. Of the new lines, the one from Hulan to Hailun was completed and in operation December 15, 1928.[3] It promises to be the first part of an extensive railroad system in northern Manchuria, a section which offers great opportunities for development. Another line runs northeast from Mukden

[1] MacMurray, *op. cit.*, Vol. II, p. 1390–1394.

[2] Willoughby, *op. cit.*, Vol. I, Chap. VII.

[3] *Japan Weekly Chronicle*, January 24, 1929, p. 93.

via Hailungcheng to Kirin which is on the Japanese leased line from Changchun. This entire railway was opened to traffic May 12, 1929.[1] A third important Chinese line, opened in 1927, starts from Tahushan, west of Mukden on the Peking-Mukden Railway, and goes northwest to Payintala where it makes connection with other lines which go through to Anganchi on the Chinese Eastern Railway.

The Japanese claim that the Chinese are violating their treaty obligations in two respects: first, China is building certain lines contrary to treaty; second, China is refusing to construct other lines demanded by treaty. The Japanese Government has protested against the construction, exclusively by the Chinese, of the two roads from Tahushan to Payintala and from Hailungcheng to Kirin, on the ground that they violate Japanese rights stipulated in a protocol to the Sino-Japanese treaty of December 22, 1905, which reads:

> The Chinese Government engage, for the purpose of protecting the interest of the South Manchuria Railway, not to construct prior to the recovery by them of the said railway any main line in the neighborhood of and parallel to that railway or any branch line which might be prejudicial to the interest of the above-mentioned railway.[2]

The Japanese maintain that both these new Chinese lines run parallel to and compete with the South Manchuria Railway, and point out that the Tahushan-Payintala road makes it possible for freight between northwest Manchuria and Tientsin to be shipped on Chinese lines without touching the South Manchuria system. The Chinese, in answer, state that these lines are not "in the neighborhood" of the South Manchuria, since the Hailungcheng-Kirin road is distant from it some 80 miles in a bee-line, and the Tahushan-Payintala averages to be from about 60 to 150 miles distant.

[1] *Manchuria Daily News*, Monthly Supplement, June 1, 1929.

[2] MacMurray, *op. cit.*, Vol. I, p. 554; Kawakami, *op. cit.*, p. 383.

Japan also contends that China is under treaty obligation to permit Japanese financial participation in any railway built from Hailungcheng to Kirin, that this promise is contained in a "preliminary agreement for a loanfor railways in Manchuria and Mongolia" signed September 28, 1918, Art. I of which reads: "The [Chinese] Government shall permit the [Japanese] banks to raise all the funds required for building" a specified number of railways in Manchuria including the line from Hailungcheng to Kirin.[1]

While the Japanese Government has repeatedly protested against the construction of these lines without Japanese consent,[2] some of the foremost Japanese state that they are not so much opposed to the new Chinese roads as they are to the violation by China of Japanese treaty rights. Mr. Matsuoka, the recent vice-president of the South Manchuria Railway Company, has said:

> The Japanese Government and the South Manchuria Railway, in dealing with the question of parallel railways, are concerned mainly with the principle that existing treaties and agreements so long as they are binding must be observed. Once this point is recognized, the question of constructing projected Chinese railways will be comparatively easy to settle.[3]

The Japanese wish to enjoy the right of financial participation in the roads as promised them by international agreement with China, and are especially anxious to share in the extension of the Changchun-Tunhua line from Tunhua to the Korean border where it would connect with a Japanese railroad running from Kainei to the seaport of Seishin. Such a line, giving a short, direct entrance to central Manchuria and opening a fertile region with abundant mineral resources, would be of great economic value as well as strategic significance to Japan. The Chinese Government, it is pointed out, promised in the agreement of September 4, 1909, to build this line, "upon

[1] MacMurray, *op. cit.*, Vol. II, p. 1448–1449.

[2] Kawakami, *op. cit.*, p. 385.

[3] *Ibid.*, p. 386.

consultation with the Government of Japan," and with the same measure of Japanese participation as in the Changchun-Kirin Railway.[1] Later, in 1918, the Chinese Government and the Japanese banks signed a preliminary agreement for a loan for the construction of this line and in accordance with the agreement the banks advanced to the Chinese Government $10,000,000.[2] Still more recently, the Japanese state, the Manchurian authorities have given verbal promises to carry out these agreements, but thus far they have not made the necessary final arrangements.[3]

The railroad issue is similar in many respects to other disputes between China and Japan in Manchuria. The Japanese rely upon treaties and other agreements made with China. The Chinese rely upon their moral right, as they view it, to check the Japanese and regain the concessions granted to them. It is all a part of the struggle between these two states over south Manchuria.[4]

The Proposed Morgan Loan

In this Sino-Japanese railroad issue the United States was nearly involved due to a proposed loan to the South Manchuria Railway Company from J. P. Morgan and Company which the Chinese vigorously opposed and which would need the tacit approval of the Department of State.

[1] MacMurray, *op. cit.*, Vol. I, p. 796.

[2] *Ibid.*, Vol. II, p. 1430–1432.

[3] See farewell address of President Yamamoto of the South Manchuria Railway Company, July 22, 1929, *Manchuria Daily News*, Monthly Supplement, August 1, 1929, p. 2.

[4] Foreign participation in railroad expansion in Manchuria is conditioned by the Consortium, signed in 1920 by American, British, French and Japanese banking groups, upon the support of their respective Governments. These groups promise to share with each other "on the principle of complete equality in every respect" all "loan agreements which involve the issue for subscription by the public of loans to the Chinese Government or to Chinese Government departments or to provinces of China or to companies or corporations owned or controlled by or on behalf of the Chinese Government," etc. The Consortium does not apply to loans where there is no public subscription, nor does it apply to several of the lines in central Manchuria including the two roads extending from Kirin. (Carnegie Endowment for International Peace, *The Consortium: The Official Text of the Four-Power Agreement for a Loan to China and Relevant Documents*, p. 62, 67–69; Malloy, *Treaties, Conventions*, etc., Vol. III, p. 3823.)

When it was announced in November, 1927, that Thomas W. Lamont, a member of the Morgan firm who was then in Japan, had practically completed negotiations for such a loan, vigorous opposition was at once raised by the Chinese. Mr. Yamamoto, the president of the South Manchuria Railway Company, stated that the loan which would amount to $30,000,000 (gold) would be used in part for the refunding of a higher-priced loan which would come due within a few months, and the remainder for additional rolling stock, heavier rails and the development of the company's collieries and fertilizer system.[1] The Chinese feared that the loan would be used for the extension of the Japanese railroad control in Manchuria, and believed that, above all else, its purpose was political, and that it would give American support to Japan's position in Manchuria. The Nanking Government protested to Washington; Dr. C. C. Wu, the minister for foreign affairs, cabled the following note to the Secretary of State:

> Chinese people have heard with alarm the imminent flotation of South Manchuria Railway loan in America and apparent acquiescence of the American Government. It is well known to the world and to none better than the American Government that the railway is not a mere industrial enterprise but the symbol and instrument of alien domination over a large and rich portion of Chinese territory. Japan sought to prolong that domination by means of the notorious twenty-one demands.
>
> If America, which repeatedly demonstrated its sympathy with China in connection with those demands, were now to lend means to strengthen that domination, Chinese people would be at a loss to understand the fundamental change of attitude on the part of the American Government. The Nationalist Government feels confident that the American Government will not permit consummation of this loan and depart from the traditional policy which has been instrumental in promoting cordial friendship between Chinese and American peoples.[2]

[1] *Week in China*, December 10, 1927, Vol. IX, p. 3–5.

[2] *United States Daily*, December 7, 1927, p. 2; *North China Herald*, December 10, 1927, p. 436.

General Yang Yu-ting, chief of staff to Marshal Chang Tso-lin who was then at the head of the Peking Government, stated that the

> Chinese considered it most provocative to the Chinese Government and people. They had enough of Japanese materials and Japanese influence in Manchuria already without the loan. When the Chinese people realized that Japanese designs in Manchuria were being supported by American bankers it would bring the people in opposition to the American bankers and through them to the American people.[1]

Numerous other protests were made by various Chinese organizations.

The American Government was concerned, since at its request all proposals for foreign loans by American banking houses are regularly submitted to the Department of State for its indication "that there is or is not objection." The perplexing position of the Department was pointed out in an editorial in the *Japan Weekly Chronicle:*

> It is difficult to see how the Department of State can now avoid the charge of taking sides: if it agrees to the loan there will be a great outcry in China that the United States is in partnership with Japan in the exploitation of Manchuria; if it disapproves of the loan there will be a feeling in Japan though probably not so much outcry . . . that the United States is taking the part of the Chinese agitators against Japan.[2]

The American bankers, however, did not complete their negotiations with the South Manchuria Railway Company and never presented any loan proposal to the department.[3]

[1] *Week in China*, December 3, 1927, Vol. IX, p. 3.

[2] *Ibid.*, December 15, 1927, p. 635.

[3] For earlier American interest in railroad development in Manchuria, see Hsü, Shuhsi, *China and her Political Entity*, p. 326–346; Kennan, George, *E. H. Harriman's Far Eastern Plans;* Willoughby, *op. cit.*, Vol. I, p. 169–186; Carnegie Endowment, *Manchuria; Treaties and Agreements*, p. 138–141.

Maintenance of Peace and Order

Japan's railroad and other interests in Manchuria have precipitated another issue with China, namely, Japan's alleged right to maintain peace and order throughout this region. Baron Tanaka's Government insisted that Japan possesses this right on account of its special interests in Manchuria. The Chinese deny this claim, and Japanese public opinion is divided regarding it.

Shortly after Baron Tanaka came into power he summoned the leading Japanese diplomatic and consular officials in China to a conference in Tokyo, at the close of which, July 7, 1927, he summarized its conclusions. One article of this summary reads:

> If the disturbances spread to Manchuria and Mongolia and, as a result, peace and order are disrupted, thereby menacing our special position and rights and interests in those regions, we must be determined to defend them, no matter whence the menace comes, and take proper steps without loss of time in order to preserve the regions as lands for peaceful habitation and development equally to Japanese and foreigners.[1]

A dramatic insistence upon this right occurred when it seemed possible that the Nationalist armies, after capturing Peking, might carry the civil war into the heart of Manchuria. In view of this situation, the Japanese Government, May 18, 1928, sent to the leading generals representing both Peking and Nanking a memorandum which said in part:

> The Japanese Government attach the utmost importance to the maintenance of peace and order in Manchuria, and are prepared to do all they can in order to prevent the occurrence of any such state of affairs as may disturb the peace and order or constitute a probable cause of such disturbance.
>
> In these circumstances, should the disturbances develop further in the direction of Peking and Tienstin and the situation become

[1] See Appendix.

so menacing as to threaten the peace and order of Manchuria, the Japanese Government, on their part, may possibly be constrained to take appropriate and effective steps for the maintenance of peace and order in Manchuria.[1]

At the same time Baron Tanaka sent a statement to the ambassadors of the leading powers in Tokyo and to the Chinese generals:

Should Manchuria and Mongolia come to be involved in the disturbance, the Imperial Government will prevent as far as possible defeated troops or those in pursuit of them, regardless of whether they are Southern or Northern troops, from entering the territory as such action is necessary for the protection of the special position of the Imperial Government in Manchuria and Mongolia.[2]

Both the Peking and Nanking Governments in reply protested against Japan's right to maintain peace and order in Manchuria. The Nanking note stated that such measures as Japan proposed

will not only constitute an interference with China's domestic affairs but also a flagrant violation of the principle of mutual respect for territorial sovereignty — a principle well established in international law. Such measures the Nationalist Government can never recognize.[3]

The withdrawal of Marshal Chang Tso-lin's forces into Manchuria without risking a battle for the possession of Peking obviated the necessity of any exceptional measures

[1] *Week in China*, May 19, 1928, Vol. XI, p. 10; *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XII, p. 53.

[2] *Week in China*, May 19, 1928, Vol. XI, p. 11.

[3] *North China Herald*, June 2, 1928, p. 359; for the Peking note, see *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XII, p. 52. Marshal Chang Tso-lin was killed near Mukden by a bomb which destroyed his railroad car just as it was passing under a bridge of the South Manchuria Railway. The tragedy embittered Sino-Japanese relations since the Chinese charged the Japanese with responsibility for the crime. It was also a leading factor in causing the overthrow of the Tanaka Government.

by Japan to maintain the peace of the region. After Marshal Chang Tso-lin's death, which actually occurred June 4, 1928, but according to official declaration, June 20, and after the succession of his son Chang Hsueh-liang to the position of headship in Manchuria, the question arose whether Manchuria should recognize the authority of the Nationalist Government at Nanking. The Japanese consul-general at Mukden, Mr. Hayashi, advised Chang Hsueh-liang, July 19, not to join with the Nationalists under existing circumstances but to adopt a policy of watchful waiting. This advice was seconded by Baron Hayashi, a distinguished Japanese diplomat. Later, Baron Tanaka stated that this advice although in accord with the views of the Japanese Government was an expression of personal opinion and not an official communication.[1] After some weeks, however, a compromise arrangement seems to have been worked out between the Chinese authorities in Manchuria and Nanking, by which the former would recognize the authority of the National Government but would be left in practical control of their own local affairs. To such an agreement Japan presented no objection and the National flag was formally raised in Mukden, December 26, 1928.[2]

The Manchurian policy of the Tanaka Government was severely criticized, however, not only by Chinese and many foreigners but also by some of the leading Japanese. Mr. Hanihara, recently ambassador at Washington, wrote that the idea that Japan is responsible for the peace of Manchuria "is certainly absurd. Japan has only the right to safeguard her rights and interests; the preservation of peace and order all over Manchuria is outside Japan's responsibility."[3] Baron Shidehara, now minister for foreign affairs, said:

[1] *Japan Weekly Chronicle*, August 9, 1928, p. 185; see also August 16, 1928, p. 216–218.

[2] *Week in China*, December 29, 1928, Vol. XII, p. 27–30; for a semi-official statement of the political status of Manchuria and its relations to the National Government at Nanking, see *ibid.*, March 2, 1929, Vol. XII, p. 155–157.

[3] *Ibid.*, May 11, 1929, Vol. XII, p. 355.

It is, of course, very desirable that the conditions in Manchuria and Mongolia should be so improved that all nationals can live in absolute security and peace, but it is certainly not for Japan to assume the task and responsibility for making them so.[1]

Foreign statesmen commented upon the developments in Manchuria. Sir Austen Chamberlain in the House of Commons, July 13, 1928, in reply to a question, said that Great Britain considered Manchuria a part of China and recognized no special Japanese interests in it except those specifically conferred by treaty and outlined by Baron Shidehara at the Washington Conference.[2] The American secretary of state, Mr. Kellogg, said to the press on May 31:

As far as the United States is concerned Manchuria is essentially Chinese soil.[3]

A solution of the conflicting claims of China and Japan in Manchuria is greatly to be desired in the interest not only of the two nations concerned but also of the political stability of the Far East. Some few suggestions of compromise have already been made. Dr. C. C. Wu states:

If relations between China and Japan are not adjusted to their mutual satisfaction, the peace of the world is not secure. If Japan's problem is economic, the solution should be economic, without importing into it political considerations. May not future statesmen find an answer to these vexed questions along economic lines?[4]

Mr. Zumoto, the Japanese spokesman at Williamstown in 1928, declared that Japan would be willing to withdraw all of its troops from the country as soon as China could provide adequate security. But these statements do not go very far. Manchuria still remains the most dangerous and the most difficult issue in Eastern Asia.

[1] *Week in China*, November 10, 1928, Vol. XII, p. 23.

[2] London *Times*, July 14, 1928, p. 13.

[3] *United States Daily*, May 22, 1928, p. 2.

[4] *Foreign Affairs*, July, 1928, p. 670.

IV. JAPAN'S FOREIGN RELATIONS

Relations with the Soviet Union

Although Japan's vital issues in its foreign affairs relate to China and especially to the region of Manchuria, it has important problems with other Pacific countries, particularly with the Soviet Union, the United States and Australia.

Friendship toward Russia in matters of trade and commerce, and hostility toward communism, the basic principle of the Soviet state, are the dual aims often proclaimed by Japanese statesmen. The treaty which forms the legal basis for the present relations of the two countries was signed January 20, 1925. By it Japan recognized the Soviet Government and promised to withdraw its troops from Northern Saghalien — a pledge properly fulfilled. The Soviet Union recognized the validity of the treaty of Portsmouth of 1905 and thereby Japan's special position in South Manchuria, but it was agreed that all other treaties between the two states signed before 1917 should be reconsidered at a subsequent conference. The Soviet Government also promised to give Japan very extensive privileges in Northern Saghalien for the exploitation of oil and coal, and added that it was "willing to grant to Japanese subjects, companies and associations concessions for the exploitation of minerals, forests and other natural resources in all the territories of the Union of Soviet Socialist Republics." The question of the debts due from the former Russian Government was to be adjusted at subsequent negotiations but it was stipulated that Japan should enjoy as favorable terms as any other country. As to propaganda, a mutual pledge was given limited to official or semi-official acts. Each power promised

to refrain and restrain all persons in any governmental service for them, and all organizations in receipt of any financial assistance

from them, from any act overt or covert liable in any way whatever to endanger the order and security in any part of the territories of Japan or the Union of Soviet Socialist Republics.[1]

The promised concessions for oil and coal in northern Saghalien were formally granted December 14, 1925,[2] and about a year later a timber concession covering 2,250,000 acres in the maritime province of eastern Siberia. A convention regulating the right of Japanese to fish in Soviet waters in eastern Asia was signed at Moscow, January 23, 1928, and ratified at Tokyo, May 22 of the same year.[3] These economic privileges, important though they are, do not appear as yet to bring the financial return expected from the convention of 1925.[4]

Fear of Russian communism, however, is particularly strong in the government circles of Japan, with occasional results that cannot increase the cordiality of the relations between the two countries. A few months after the new treaty of 1925 went into effect, a Soviet labor delegation of 50 Russians came to Japan to confer with the Japanese, but they were so closely watched by the police that they could neither make speeches nor hold conferences and shortly returned home.[5] In 1928, March 15, over 1,000 alleged communists were arrested in Japan and a widespread communist plot suspected by the police. It was at once charged that Soviet nationals had instigated and assisted these Japanese communists. In fact, the home minister in Tokyo stated that some of the Japanese leaders had been to Moscow for instruction and that it was suspected that the Soviets had also given financial help.[6]

The Japanese Government, and apparently a considerable majority of the Japanese people, look forward to con-

[1] League of Nations, *Treaty Series*, Vol. XXXIV, p. 32–42; *China Year Book, 1925*, p. 788–793.

[2] Toynbee, *op. cit.*, 1926, p. 503.

[3] League of Nations, *Treaty Series*, Vol. LXXX, p. 341.

[4] *Pacific Affairs*, May, 1929, p. 286–287.

[5] *New York Times*, September 26, 1925.

[6] *Japan Weekly Chronicle*, April 26, 1928, p. 501; see also *ibid.*, April 19, *1928*, 452–454, 461–465; *New York Times*, April 11, 1928.

tinuing friendly relations with the Soviet Union and to enjoying the benefits of economic cooperation. In the fall of 1927 an economic mission went to the Soviet Union, headed by F. Kuhara, a leading business man, accompanied by Hiroshi Saito, the able consul-general at New York. A little later Viscount Goto, one of the distinguished statesmen of Japan, made a visit to Moscow, which attracted much attention and evidently made a favorable impression. But a section of Japanese opinion believes that the factors which make for friction between the two countries are stronger than those which make for friendship. This divergence in opinion is shown even in the official utterances of the Japanese leaders. Baron Shidehara, when minister for foreign affairs, in an address before the Imperial Diet, January 18, 1926, said as to the Soviet Union:

> Within the two years which have elapsed since the signing of the convention of Peking, the mutual relations of the two countries have been steadily gaining in strength and they give great promise for the future. There are certain sections of people who seem to indulge in an alarming speculation, as if the interests of Japan and the Soviet Union were destined to clash in Manchuria. . . . I have thought it fitting to add these remarks, in view of the unjustifiable pessimism that has from time to time been expressed in certain quarters on the future of our relations with the Soviet Union.[1]

Baron Tanaka, when prime minister, stated, April 22, 1927:

> In the matter of communist activity in China, Japan can hardly remain indifferent as she is vitally concerned with the preservation of peace in the Orient generally and is so placed as to be directly and most deeply affected by the results of such activity. . . . I am confident that this stand which we take will be well understood by our friendly neighbor Russia.[2]

[1] Toynbee, *op. cit.*, 1926, p. 508–509.

[2] Condliffe (ed.), *op. cit.*, p. 284.

Relations with America

Japan and America are bound together by many ties both of old friendship and of modern trade and finance. The former friction between them arising from differences over Chinese relations, which appeared intermittently from the close of the Russo-Japanese War until the Washington Conference, appears happily to be past. There is, however, one outstanding issue between these nations: the exclusion provision of the American immigration act of 1924.[1] The Japanese Government and people are not reconciled to it and refuse to regard the matter as a closed incident. The Japanese minister for foreign affairs, Baron Shidehara, stated in the Diet in January, 1926, regarding "the so-called Japanese exclusion clause:"

> I only desire to make it clear that we remain unchanged in our feelings of deep regret at that particular clause which seems to us irreconcilable with the rules of international comity and justice.[2]

Similar statements have been made each succeeding year by the Japanese secretary for foreign affairs in his annual address before the Imperial Diet.[3] In 1929, January 22, Baron Tanaka said:

> It is a source of congratulation that the bond of friendship, economic and political, with the United States is being more than ever strengthened. Only I wish to add that the matter of the immigration law which has been pending for the past few years has not yet been composed. A satisfactory solution of a problem like this must after all depend upon the mutual good understanding which, I am confident, is growing year after year.[4]

This official attitude expresses with moderation the feeling which is held deeply and strongly by the Japanese

[1] For the act of 1924 and a short history of the immigration issue, see Buell, R. L., *Japanese Immigration.*

[2] Toynbee, *op. cit.*, 1926, p. 504.

[3] For Baron Shidehara's statement, 1927, see *ibid.*, p. 510; for Baron Tanaka's statement, January 21, 1928, see *Japan Weekly Chronicle*, January 26, 1928, p. 101.

[4] *Japan Weekly Chronicle*, January 31, 1929, p. 118.

people as a whole. The writer remembers vividly a dinner discussion with the members of the Japanese-American Relations Committee in Tokyo in the last days of 1927. The president of the committee, Viscount Shibusawa, often called the "Grand Old Man of Japan," spoke of his life-long friendship for America, from the days when Commodore Perry opened Japan, which he remembered as a boy, down to 1924 when, he said with feeling, "America put this insult upon us." This phrase expressed the attitude of this group of distinguished Japanese, all of whom regarded themselves as friends of the United States. Any solution would be satisfactory to them which removed the national humiliation, as they regard it, of discrimination.

American opinion is as clearly divided regarding this issue as Japanese opinion is united. The present situation and its difficulties may well be judged from certain sections of a joint resolution introduced into the California state Senate, February 27, 1929, and subsequently passed by both houses of the Legislature:

Whereas, In 1924, after full investigation and consideration, Congress by general law prohibited the immigration of aliens ineligible to citizenship; and

Whereas, Various organizations have since the passage of said act persistently sought to influence Congress to recede from such policy, and the adherence to said policy has been urged by the American Legion, American Federation of Labor, the Grange and the Native Sons of the Golden West, the first three of which organizations have repeatedly in their annual conventions by resolutions expressed their continued support of the congressional action; and

Whereas, There is now in progress a nation-wide campaign designed to substitute the quota system for the rigid and effective exclusion of Asiatic laborers as provided in the General Immigration Act of 1924; now therefore, be it

Resolved, By the Senate and Assembly of the State of California, jointly, That the Legislature of this state protests against any character of action designed to modify the present immigration laws relating to the exclusion of Asiatic laborers and reaffirms its belief that the privilege of American citizenship should con-

tinue to be restricted as at present, and that the privilege of immigration should be extended only to those people who may become citizens of the United States. . . .[1]

Immigration Exclusion

The United States, however, is not the only country in the Pacific to exclude Japanese laborers; all the British Dominions take the same action though by different methods. Toward this exclusion the Japanese attitude is twofold: first, resentment against any discrimination based on national or racial grounds, and, second, also a sense of moral wrong that Japanese should be debarred from great areas which are relatively undeveloped. Japanese statesmen frequently declare, as did Baron Shidehara before the Diet in 1926, that "it is not our policy to send emigrants to any country in which they are not welcomed."[2] Yet there is regret that they are not welcomed. This view was presented strikingly by some of the Japanese spokesmen at the Honolulu conference of the Institute of Pacific Relations in 1927. The chairman of the Japanese group, Dr. Sawayanagi, said:

> Japan is to-day facing a series of acute problems, of which the greatest is undoubtedly the problem of population and food supply. . . .
>
> As we look over the world situation from this angle, . . . it is only in the Pacific countries, especially in Australia and North and South America, that there are vast territories, still undeveloped and sparsely settled. And in almost all these countries Japan faces the stone wall of exclusion. . . .
>
> The only satisfactory method of solving the problem of immigration is, not through discriminatory legislation, but through the recognition by the nations bordering on the Pacific Ocean, of the natural right of immigration. . . . I believe that the natural right of all humankind to share the resources of the world on some equitable basis and to enjoy the freedom of movement and residence will be recognized by the thinking leaders of all progressive lands. This recognition will come, however, not simply

[1] (California) Senate Joint Resolution, 1929, No. 6.

[2] Toynbee, *op. cit.*, 1926, p. 504.

as a desire to relieve the pressure of population, but as a result of unreserved acceptance of justice and fair play as fundamental principles of international and interracial relations.[1]

Professor Nasu of the Imperial University of Tokyo expressed the same view:

Japan feels herself to be bottled up in a tiny island of the Far East. Other nations more favored than she can increase freely, raising the standard of living at the same time. . . .

Ought a nation [Japan] which obviously has a high degree of culture, and whose people are industrious and peace-loving, be denied the peaceful migration of her surplus population to regions where there are vast tracts of undeveloped land? . . . Is it moral for a nation with a vast and undeveloped territory to refuse the entrance of other people simply in order that it may preserve its standard of living, regardless of the fact that such an action will have a serious effect on others?

[1] Condliffe (ed.), *op. cit.*, p. 31–32.

V. THE BRITISH DOMINIONS

The policy of the British Pacific Dominions which is most important in its effect upon other countries is that of the strict limitation or the total exclusion of all Asiatic laborers from their territories. Each of the Dominions, Australia, Canada and New Zealand, uses a different method of realizing this policy.[1]

Canada's immigration act of 1910–1924 empowers the governor in council to prohibit the entrance into Canada "of immigrants belonging to any specified class or nationality" for several named reasons, including their inability "to become readily assimilated and to assume the duties and responsibilities of Canadian citizens within a reasonable time after their entry." [2] Under the authority of this act orders in council strictly regulate and limit the number of Asiatic immigrants. Chinese, except the usual exempted classes, are denied entrance by a special act. Japanese laborers, however, are still admitted under a Gentlemen's Agreement, first made in 1908, which now restricts the number of Japanese immigrants in any one year to 150.

New Zealand restricts Oriental immigration under the authority of the act of 1920 which provides "that no person other than a person of British birth and parentage shall . . . enter into New Zealand unless he is in possession of a permit to enter." [3] The granting of the permit remains as an administrative matter in the hands of the New Zealand officials.

[1] "Legislative Aspects of Asiatic Migration," prepared by the International Labor Office, Condliffe (ed.), *op. cit.*, p. 454–460; see also Wilson, G. G., and Wynne, E. C., *Immigration Laws; Australia, Canada, New Zealand, Japan*, Institute of Pacific Relations, 1927.

[2] *Ibid.*, p. 455. This provision is found in Art. 38*c* of the Canadian immigration act of May 4, 1910, as amended by the act of June 6, 1919. (*Statutes of Canada*, 1910, 9–10 Edward VII, Vol. I, Chap. 27, p. 205 *ff.*: *ibid.*, 1919, 9–10 George V, Vol. I, Chap. 25, p. 91 *ff.*)

[3] Art. 5 of Act to amend the immigration restriction act, 1908, November 9, 1920. (*New Zealand Statutes*, II. George V, 1920, p. 78 *ff.*)

Australia

It is the Australian immigration legislation, however, which has particularly attracted the attention of other countries.[1] The "white Australia policy" is enforced by the well-known dictation test; that is, the would-be immigrant must write down from the dictation of an immigration officer at least 50 words in a prescribed language. This is not a test of literacy but a method of exclusion. It is not intended that the test shall ever be passed; the officials may administer it as they wish. It was instituted and has been maintained to exclude Asiatic immigrants. But the immigration act is believed to have the advantage that in its wording it does not discriminate against any race or nation. In fact, it is sometimes used to exclude undesirable Europeans. The discrimination lies entirely in the method of the enforcement of the act. A series of Gentlemen's Agreements, moreover, tempers the apparent severity of the act, for these provide that students, merchants and tourists from Japan, China, India and a number of additional countries shall be admitted without the necessity of submitting to the dictation test.

An important development, however, took place in the Australian immigration policy in 1924 and 1925. Due to an unusually large influx from southern Europe, especially from Italy, it came to be felt in Australia that the number of immigrants from this region must also be limited. The idea developed, in the popular mind, that Italians are not "white" in the Australian sense. An Italian consul in one of the Australian cities remarked to the writer in 1927, "I suppose you have discovered that we Italians are not white."

To meet this new situation additional Gentlemen's Agreements were made with Albania, Greece, Malta, the Serb-Croat-Slovene State and other south European coun-

[1] The immigration act, 1901–1925. (*Australia, Commonwealth Acts*, 1925, Vol. XXIII, p. 87 *ff.*) See Wilson, G. G., and Wynne, E. C., *op. cit.*, p. 1–16; "Legislative Aspects of Asiatic Migration," Condliffe (ed.), *op. cit.*, p. 454; Charteris, A. H., "Austrian Immigration Laws and their Working," Condliffe (ed.), *op. cit.*, p. 483–488.

tries by which their emigrants to Australia should be limited to a small and prescribed number monthly. The Italian Government of its own volition, it states, enforced such conditions upon emigration to Australia that the number of Italians entering the country has been sharply reduced. In view of these restrictions placed upon certain European countries, it is maintained by some Australians that the term "white Australia policy" is no longer applicable. In 1925, moreover, a commonwealth immigration act was passed, similar to the one in Canada, which authorizes the governor general to prohibit the immigration into the commonwealth "of aliens of any specified nationality, race, class or occupation . . . (*c*) because they are deemed unlikely to become readily assimilated. . . ." The powers thus granted have not so far been exercised, but the act gives legal sanction for racial or national discrimination.

The "white Australia policy" in its international aspect has caused a measure of resentment among well-informed Japanese, and in Australia a widespread, latent fear of Japan. The Japanese who know of the Australian immigration regulations regard them as an expression of a "dog-in-the-manger" policy, since the 6,000,000 or 7,000,000 Australians, they claim, can not occupy the entire island continent and will not let others do so. A leading Japanese daily comments:

> Is not the principle of white Australia contrary to the spirit of justice, liberty and universal brotherhood? We wonder if the justice and liberty as understood by some Britons is confined to the Anglo-Saxon race and does not mean justice and liberty for all mankind.[1]

The Japanese, however, are not nearly so much concerned over white Australia legislation as over American exclusion, since the Australian laws are not openly discriminatory, and, even more important, since the Japanese

[1] Hochi, quoted in *The Japan Times Weekly*, June 3, 1922, p. 570.

in general are relatively little interested in what takes place in the British Dominions south of the equator.

In Australia a fear of Japan has at times been marked and has been publicly expressed by such men as the recent commonwealth prime minister, William M. Hughes. At present, doubtless a majority of well-informed Australians have ceased to regard Japan as a military danger, but a latent suspicion of that country is widely held among the masses and is a factor in the international situation in the Pacific.[1]

[1] An excellent and authoritative summary of the situation is given by Piesse, E. L., "Japan and Australia," *Foreign Affairs*, April, 1926, Vol. IV, p. 475–488; see also "The White Australia Policy," *Foreign Affairs*, October, 1925, p. 97–111; Roberts, S. H., "Australian View of Pacific Relations," *Institute of Pacific Relations, Proceedings, etc.*, 1925, p. 63–65. The standard history of the subject is, Willard, Myra, *History of the White Australia Policy*.

VI. AGREEMENTS FOR PRESERVING PEACE IN THE PACIFIC

Limitation of Fortifications and Naval Bases

A number of treaties and conventions are in force which aim to remove causes of friction, settle international disputes and in general preserve the peace of the Pacific.

First of these should be mentioned a series of agreements which prevent the further fortification of many of the islands of the Pacific Ocean. By Art. XIX of the treaty limiting naval armament signed at the Washington Conference, Great Britain, Japan and the United States agreed that until at least December 31, 1936, they would neither strengthen their fortifications or naval bases, nor build new ones on a designated list of their Pacific islands. The American islands included under this nonfortification agreement are the Philippines, Guam and the Aleutian Islands — but not Hawaii. The Japanese islands concerned are the outlying possessions: the Kuriles, Bonins, Amami-Oshima, the Loochoos, Formosa and the Pescadores. Hong Kong and a number of the smaller British islands complete the list. Although this agreement has been severely criticized by American naval officers because it surrendered for a term of years the right to fortify adequately Guam and the Philippines, it seemed a wise provision to the members of the American delegation at the Washington Conference. It maintains the *status quo* in regard to fortifications and naval bases throughout much of the Pacific and prevents competition in this form of naval armament just as the agreement on naval vessels prevents competition in the number or size of capital ships.[1]

Further agreements provide that the islands in the Pacific which are administered as mandates by Australia,

[1] *Conference on the Limitation of Armament*, p. 1581–1582. The provision went into force August 17, 1923.

the British Empire, Japan and New Zealand must also remain unfortified. The original grant, or mandate, states, "no military or naval bases shall be established or fortifications erected in the territory." [1] So far as the Japanese mandated islands are concerned, that is, the Carolines, Marshalls and Mariannas, the pledge that they shall not be fortified was repeated by Japan in the treaty with the United States, signed February 11, 1922.[2]

Four Power Pact

A special agreement regarding their islands in the Pacific was signed at the Washington Conference by France, Great Britain, Japan and the United States. By the Four Power Pact, as it is usually termed, these powers promised to respect each other's rights "in relation to their insular possessions and insular dominions in the region of the Pacific Ocean;" to refer any controversy "arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy" to a conference of the four powers "for consideration and adjustment;" and, in case "the said rights are threatened by the aggressive action of any other power," to "communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation." It was provided that upon the deposit of ratifications of the treaty the Anglo-Japanese Alliance should terminate.[3] The treaty included the mandated islands in the Pacific but did not thereby give the assent of the United States to the mandates. By a separate treaty with Japan the United States has recognized the validity of the Japanese mandate; but it has not as yet

[1] League of Nations, *Official Journal*, Vol. II, No. 1, p. 85 *ff.*, gives the provision for the Japanese Mandate. The others are identical. The mandates are also separately published by the League of Nations as documents 21/31/14a — 21/31/14b — 21/31/14c — 21/31/14e.

[2] Malloy, *op. cit.*, Vol. III, p. 2724. The cable island Yap, the subject of dispute between the United States and Japan, 1921–1922, is in the West Caroline group.

[3] *Conference on the Limitation of Armanent*, p. 1614–1615: Malloy, *op. cit.*, Vol. III p. 3094–3096. Ratifications were deposited at Washington, August 17, 1923.

signed treaties recognizing the Pacific Ocean mandates of Australia, New Zealand or the British Empire. In its application to Japan, the treaty includes only Karafuto (the southern portion of the island of Saghalien), Formosa and the Pescadores, and the Japanese mandated territories. Domestic questions are excluded from the scope of the pact.[1]

So much apprehension was felt by some Americans regarding the possible implications of this treaty that the United States Senate ratified it subject to the following reservation:

> The United States understands that under the statement in the preamble or under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense.[2]

On the other hand, it is believed by many that the Four Power Pact was a painless method of terminating the Anglo-Japanese Alliance and that otherwise it has slight significance. The terms of the treaty make it clear that it is strictly limited in its scope to islands in the Pacific Ocean and does not apply to China or the mainland of Japan. It is therefore of interest to note that Mr. Stimson, the secretary of state, is said to have called to the attention of the other signatories of the pact the danger arising from the Sino-Russian issue in Manchuria.[3] It might be proper to comment that fully as much depends upon the spirit which actuates states as upon the exact wording of treaties which bind them.

Nine Power Treaty regarding China

As for China, the Pacific powers signed a nine power treaty, at the Washington Conference, "relating to principles and policies concerning China," which aimed in part

[1] *Conference on the Limitation of Armament*, p. 1617–1620: Malloy, *op. cit.*, Vol. III, p. 3096–3099.

[2] Malloy, *op. cit.*, Vol. III, p. 3096.

[3] *New York Times*, July 20, 1929.

"to safeguard the rights and interests of China;" and in which they promised "to respect the sovereignty, the independence and the territorial and administrative integrity of China;" and, further, agreed that

> whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present treaty and renders desirable discussion of such application, there shall be full and frank communication between the contracting powers.[1]

Any violation, therefore, of the sovereignty or integrity of China is not only contrary to treaty, but, upon the desire of any one of the contracting states, calls for a frank discussion of the situation by the Pacific powers.

Pact of Paris

The treaty for the renunciation of war signed at Paris August 27, 1928, entered into full force on July 24, 1929, throughout the Pacific and the Far East as well as elsewhere. All the Pacific powers represented at the Washington Conference, including the British Dominions in the Pacific, and, in addition, the Union of Socialist Soviet Republics, as parties to it, declare "that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relation with one another," and "agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."[2] Although this Pact of Paris provides no machinery of any kind for its enforcement, its possible effectiveness as an instrument for maintaining peace was clearly revealed by the success of Secretary Stimson's reminder to both Russia and China on July 19 that they were under pledge to settle their disputes over the Chinese Eastern Railway by other means than war.[3]

[1] *Conference on the Limitation of Armament*, p. 1621–1627.

[2] For the text of the treaty, see Appendix.

[3] *New York Times*, July 20, 1929.

League of Nations

The League of Nations may, upon occasion, prove a useful agency for maintaining peace in this area as well as elsewhere. Whenever a serious international difficulty arises in the Pacific or the Far East, there are many who suggest that the League be called upon for assistance. It has an excellent organization, a secretariat skilled in dealing with international disputes and a council which has proved its ability to solve many perplexing European tangles. Of the nine Washington Conference powers, eight are Members of the League, and as such have pledged themselves to submit their international issues to judicial settlement, arbitration or conciliation, and to join with other Member states in helping to maintain world peace. But of the five most important Pacific states, two, the United States and the Soviet Union, are not Members of the League. Up to the present time, the League has taken practically no part in settling the problems of the Far East and the Pacific.[1] These problems have been dealt with, and in part settled, at international conferences attended by the Pacific powers, such as the Washington Conference, 1921–1922, or by direct consultation between these powers.[2]

As to the Permanent Court of International Justice, all of the nine Washington Conference powers except the United States have signed the protocol of the Court and have thus accepted its jurisdiction. But they have not thereby pledged themselves to submit their disputes to the Court; such a pledge is given only by those states which have signed the so-called "optional clause" requiring them to refer to the decision of the Court certain classes of legal issues. Five of the Washington Conference powers, Belgium, China,[3] France, Netherlands and Portu-

[1] The deputy secretary general paid a first official visit to the Far East in 1928–1929.

[2] For the present membership of the League, and a survey of its activities, see Myers, D. P., *Nine Years of the League of Nations*, 1920–1928.

[3] The Chinese declaration of acceptance has not been formally renewed following the expiration of its specified five-year term on May 13, 1927. At that time the Belgo-Chinese case was pending.

gal, have signed this optional clause; but Great Britain,[1] Japan, the Soviet Union and the United States have not done so.[2]

Bipartite Treaties for Promotion of Peace

There are a number of bipartite treaties for the promotion of peace between the various Pacific countries. The United States has treaties of the Bryan type originally signed in 1913 and 1914 now in force with all of the Washington Conference powers except Belgium (with which one is signed) and Japan (with which negotiations are pending); and, in addition, with Russia.[3] The contracting states agree that all disputes arising between them,

> of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent international commission . . . [and they] agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.[4]

Of the Root treaties signed in 1908–1909 only the one with the Netherlands is still binding. This provides that "differences which may arise of a legal nature" should be referred to the Permanent Court of Arbitration at the Hague, "provided, nevertheless, that they do not affect the vital interests, the independence or the honor of the two contracting states and do not concern the interests of third parties." [5]

A new series of Kellogg treaties has recently been negotiated, similar in scope and character to the Root treaties,

[1] The present labor Government has expressed its intention to accept the optional clause in conjunction with the British Dominions.

[2] See Hudson, Manley O., *The World Court, 1922–1929*, p. 102–110.

[3] The treaty is in force but no effort has been made to render it applicable to the successor state, the Soviet Union, by completing the appointment of commissioners under it.

[4] Malloy, *Treaties, Conventions, etc.*, Vol. III, p. 2515, gives the wording of the treaty with China.

[5] *Ibid.*, Vol. II, p. 1277.

which provide that "all differences relating to international matters . . . which are justiciable in their nature" shall be referred to arbitration provided they do not concern domestic issues, the interests of third parties, the Monroe Doctrine or the obligations of the League of Nations.[1] Of this new type of arbitration treaty, the United States has in force one with France, and has signed others with Belgium, Italy and Portugal. Negotiations were recently in progress for the conclusion of similar treaties with China, Japan and the Netherlands. But as late as July 31, 1929, the United States had no treaty of arbitration or conciliation with Japan.[2]

Of the other leading states of the Pacific, the British Empire, China, Japan and the Soviet Union, not one has in force a bilateral treaty of arbitration or conciliation with any other state of this group.

The Ninth Assembly of the League of Nations on September 26, 1928, adopted unanimously the General Act for the pacific settlement of international disputes, an action which embodied the assent of all countries interested in the Pacific with the exception of the United States and the Soviet Union. This General Act is intended to be a standard form of agreement respecting the scope and procedure of conciliation, judicial settlement and arbitration; and is open to accession by all states. Of the Washington Conference powers, Belgium has acceded to it, and the French Government on August 1 was awaiting parliamentary authorization to do so.[3] The MacDonald Government in Great Britain has pronounced itself in favor of accession.[4] But as yet it is in force for none of the leading Pacific states.

[1] For the wording of the American-French treaty, see *American Journa of International Law*, Supplement, April, 1928, Vol. XXII, p. 38.

[2] See Department of State, Treaty Division, *Bulletin of Treaty Information*, No. 4, June, 1929, "A List of the Treaties of the United States for the Promotion of Peace," in force June 30, 1929; also *Ibid.*, No. 5, July, 1929; for a good summary of these Kellogg treaties, see *American Journal of International Law*, July, 1929, Vol. XXIII, p. 595–602.

[3] See memorandum of March 16, 1929, Myers, D. P., *Origin and Conclusion of the Paris Pact*, p. 29.

[4] See the debate on the King's Speech opening Parliament, July 5, 1929, *ff*.

Suggestions for Additional Treaties

The relatively small number of international agreements for the promotion of peace throughout the Pacific area seemed to many members of the Honolulu conference in 1927, to be a marked defect in the international organization of this region. The situation to-day is much improved, since the Pact of Paris is now in effect for all the Pacific states, and the new Kellogg arbitration treaties are being negotiated and signed. For the further betterment of the treaty structure of the Pacific, it has frequently been suggested that the Four Power Pact of the Washington Conference should be extended so that it would include not merely the islands of the Pacific but all countries of this region, especially China. The especial advantage of this suggested extension, it is claimed, would be the assurance that every international dispute in the Pacific which could not be settled by diplomacy would be referred to a joint conference of the Pacific powers "for consideration and adjustment."

APPENDIX

I. CHINA AND FOREIGN POWERS

1. Declaration by the Nationalist Government, June 16, 1928 [1]

Now that unification of China is being accomplished the Nationalist Government of the Republic of China has the honor to make to the friendly nations of the world the following declaration.

The revolution led by the Nationalist Government has as its primary object the building up of a new state. As the military period of the revolution is closing, the Nationalist Government is now engaged in the work of rehabilitation and reconstruction so that the new state may soon be realized.

What we mean by the new state is putting into effect the "three principles" laid down by our late chief, Dr. Sun Yat-sen, so that we may gain for our people the blessing of liberty and freedom and for China international peace on a basis of equality. We will naturally discard any militaristic form of government which has been the practice of the past and we will not tolerate any person aiming at the destruction of modern social institutions such as the Communists.

To realize its hope of a new state the Nationalist Government must put its international relations on a new basis. For 80 years China has been under the shackles of unequal treaties. These restrictions are a contravention of the principle in international law of mutual respect and sovereignty, and are not allowed by any sovereign state. Hence China has asked in various declarations for a sympathetic understanding by friendly nations. We are pleased to note that since the latter part of 1926 the spokesmen of the foreign powers have expressed their willingness to negotiate new equal treaties. Now that the unification of China is being consummated we think the time is ripe for taking further steps and begin at once to negotiate — in accordance with diplomatic procedure — new treaties on a basis of complete equality and mutual respect for each other's sovereignty.

The Nationalist Government firmly believes that when this is accomplished the friendly relations between China and the other powers and goodwill among the peoples and China's international trade and other facilities for transportation will ever increase and

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July 1928, Vol. XIII, No. 3, p. 47–48.

even better protection will be afforded the lives and property of foreigners in China.

The Nationalist Government wishes to make to the friendly powers a further declaration that it will not disregard, nor has it disregarded, any international responsibility in consequence of agreements and understandings properly and legally concluded and on a basis of equality. When the treaty restrictions are removed the mutual assistance, morally as well as materially, that may be rendered between China and the other powers will no doubt enhance the progress of civilization of the world.

With profound sincerity the Nationalist Government in the name of the people of all China makes the foregoing declarations to the whole world and hopes that all friendly nations will accord their fullest sympathetic understanding to its program of a new state as a step toward the attainment of ideal mutual help for the glory of mankind and for the permanent peace of the world.

Nanking, June 16, 1928.

2. Declaration by the Ministry of Foreign Affairs of the Nationalist Government, July 8, 1928 [1]

The Nationalist Government, with a view to adapting themselves to present-day circumstances and with the object of promoting the welfare of, and friendly relations between, China and the different countries, have always considered the abrogation of all the unequal treaties, and the conclusion of new treaties on the basis of equality and mutual respect for territorial sovereignty as the most pressing problem of the present time.

These aims have been embodied in declarations repeatedly made by the Nationalist Government.

Now that the unification of China is an accomplished fact, it is the task of the Nationalist Government to make every effort fully to realize these aims.

While they will continue to afford protection to foreign lives and property in China according to law, the Nationalist Government hereby make the following declaration with regard to all unequal treaties:

(1) All unequal treaties between the Republic of China and other countries which have already expired shall *ipso facto* be abrogated and new treaties shall be concluded.

(2) The Nationalist Government will immediately take steps to terminate, in accordance with proper procedure, those unequal treaties which have not yet expired, and conclude new treaties.

(3) In [the] case [of] the old treaties which have already expired

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XIII, No. 3, p. 48–49.

but have not yet been replaced by new treaties, the Nationalist Government will promulgate appropriate interim regulations to meet the exigencies of such a situation.

Nanking, July 8, 1928.

Interim Regulations

(1) Foreign countries and foreigners referred to in these regulations mean those countries whose treaties with China have expired, but which have not yet concluded new ones.

(2) Diplomatic and consular officials of foreign countries in China shall be accorded all the privileges and immunities conferred on them by international law.

(3) Foreign life and property in China shall be entitled to the protection of Chinese law.

(4) Foreigners shall be subject to the jurisdiction of Chinese courts and governed by Chinese law.

(5) Pending the application of the Chinese national tariff law, the existing customs regulations shall be applied to foreign imports into China and foreign exports out of the country.

(6) Foreign residents in China shall pay taxes where Chinese themselves are required to pay them.

(7) All matters which are not regulated by these provisions shall be settled in accordance with international law and Chinese law.

Nanking, July 8, 1928.

3. Resolution Passed by the Third National Congress of the Kuomintang with Regard to China's Foreign Relations, March 15-28, 1929[1]

[Semi-official translation]

The Third National Congress, after hearing the report on China's foreign relations, is aware of the fact that the principle of equality and reciprocity laid down by the Kuomintang for dealing with China's foreign relations has recently been accepted by the powers. The initial move toward tariff autonomy has also been crowned with success. These achievements are the result of solidarity and united action of the Chinese people under the guardianship of the Kuomintang, whose aim it is to see the enforcement of the Three Peoples' Principles in this country. However, the Congress regards the present diplomatic achievements as only the first step toward full realization of the party's foreign policy.

At the First National Congress of the Kuomintang, resolutions were adopted to the effect that the abrogation of unequal treaties and the

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1929, Vol. XIII, No. 2, p. 54–57.

conclusion of new treaties on the basis of absolute equality and reciprocity be laid down as the basic principle of China's foreign policy.

With the ushering in of the political tutelage period, the time has come for the enforcement of the program laid down by our late leader, Dr. Sun.

The resolutions of the First National Congress outlining China's foreign policy, containing altogether seven articles, may be summarized as follows:

1. All existing unequal treaties between China and foreign powers shall be abrogated and new treaties shall be concluded on the basis of equality and reciprocity.

2. All future treaties concluded between China and foreign powers shall be made in such a way as not to encroach upon the sovereign rights of the contracting parties.

3. China's foreign loans shall be reconsolidated and only such foreign loans as are not injurious to China's political and economic interests shall be given recognition.

These three points form not only the guiding principles for the abrogation of existing unequal treaties, but also the very road leading to China's new international status of equality and freedom.

China, after being kept under the yoke of political and economic imperialism for a period of more than 80 years, has found herself in a semi-colonial state. The weapons which the imperialists have employed in exploiting this country are no other than the unequal treaties. Such being the case, the Kuomintang and all its members, with the cooperation of the people, shall lead a nation-wide campaign for the realization of the foreign policy formulated by the First National Congress, thereby liberating China from her semi-colonial state and restoring all her lost sovereign rights.

However, in order to carry out the program of abrogating unequal treaties, the following conditions are prerequisite. First, the country shall be in fact under centralized and unified control; the thoughts of the people shall be solely guided by the Three Peoples' Principles and all domestic, diplomatic, military and financial affairs shall be unified under the National Government. Secondly, the reconstruction of the country shall be carried on in accordance with the program drawn up by our late leader in his book "Plans for National Reconstruction," so as to expedite the material reconstruction and to stabilize the economic condition of the nation. It is only when these shall have been achieved that we can expect success in our foreign affairs. Therefore, the more we can accomplish in the direction of these two prerequisite conditions, the less we shall be hindered in disposing of the unilateral treaties. In other words, the earlier we can fulfill these two conditions, the earlier we can see the unequal treaties terminated. These are what the party expects all party members and the people to struggle for during the period of political tutelage.

After all unequal treaties have been terminated, China will become a strong and wealthy nation and, as a matter of course, occupy an important position in the family of nations. It will then be our chance to strive for the realization of the spirit of Dr. Sun Yat-sen's foreign policy in its entirety.

The spirit of Dr. Sun Yat-sen's foreign policy in its entirety is based upon world brotherhood. From the foundation of absolute equality of the peoples of the world is to be built world peace. He recognized that in the history of the world, there had been two conflicting foreign policies. One is represented by the ancient Chinese idea of assisting the weak and the other is represented by the modern Western idea of imperialism. The difference between these two policies is fundamental. Imperialism aims at the conquest of territory, control of economic life and even suppression of native culture. The result is the creation of a line of demarkation dividing the world into two classes — the imperialists, and the weaker and smaller races — similar to the division in the capitalistic society. Imperialism is worse than capitalism in that the imperialists, in their exploitation of weaker peoples, usually find their interests conflict with one another, which eventually leads to world war.

Our late leader was convinced that the prevalence of foreign policy based upon imperialism would eventually lead to the destruction of mankind. Therefore, he strongly advocated that the party should revive our ancient teaching of helping the weak as it has been fighting for nationalism.

China for many thousand years has been a powerful nation. In spite of her advantageous position, however, she never attempted to deprive Korea, Siam, Burma, Annam and other small countries of their independence, but has given them instead her civilization. The imperialist powers of to-day, on the contrary, with only several hundred years of history behind them, have conquered these small nations one after another and converted them into their own colonies. Which one of these two policies is really superior is self-evident.

Regarding the basic principle of China's foreign policy, Dr. Sun declared: "When China becomes a strong power, not only should she restore the former status of the Chinese race, but also discharge the grave responsibility she owes the world — the responsibility of helping all the weaker peoples."

It is clear, therefore, that we should assist the weak and resist the strong; and with our moral and peaceful background as a foundation, we should build up a world of permanent peace.

The basic principle of China's foreign policy should be permanent world peace through equality of peoples. If and when all the nations of the world have equality and independence, world peace will then be permanent; and all our energies, physical and mental, which would otherwise be exerted in warfare, can be used for the development of the civilization of peace.

The spirit of the above basic principle of China's foreign policy should always be unaltered, although its enforcement might permit deviation from rigidity. It is the foundation upon which China's future foreign relations are to be based. It is what the Chinese people demand in the interest of their race. It is this goal which the Kuomintang is striving to reach.

4. Manifesto of the Kuomintang Central Executive Committee, June 18, 1929[1]

The most important task of our party during the educative period of the Chinese people's development consists in observing the injunctions of our late leader, Dr. Sun Yat-sen, and in realizing the Three Principles of the People in actual constructive work. The people should be thoroughly trained in the exercise of political power so that the revolution may be really brought to an end and the foundations of the republic solidly laid. The unification of China is now completed; the state burial of Dr. Sun has been held; and we have opened the present conference of the Central Executive Committee as part of the program of the recent Third Party Congress and in fulfilment of the wishes of the people. It is the intention of the present conference to concentrate upon the purely constructive side and to submit those fundamental questions with which the nation is now confronted to the most careful consideration in order that we might be able to decide upon the policy of the party and the government which must be one that can be fully realized and fulfilled.

Such being the functions of the present conference, the questions which were brought up for discussion partook of a constructive nature and every one of them underwent thorough analysis. All the resolutions which we have adopted are those which we think can be immediately carried out. Among the important resolutions are those which appertain to the progress of the party, to the limitation of the length of the educative period, to popular organizations, to the promotion of local self-government, to the proper exercise of the functions of government, and to the organization and completion of the five *Yuan* as established by the organic law. All these questions are of great importance to the party and to the Government, and it therefore behooves the present conference to decide upon the policy to underlie these fundamental questions. As regards foreign affairs, military affairs, finance, communications, education, home affairs, agriculture, mining, commerce and such other economic questions, and also as regards conservancy work, the suppression of banditry, the suppression of opium and the organization of Tibetan and Mongolian affairs, we have decided on the different stages in which their programs should be carried out as well as the specific functions to which they should

[1] *The Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, No. 3, p. 67.

each be given. It is our hope that we will thus be able to make the educative period in the development of China one of actual accomplishments and to devise a comprehensive program of reconstruction. There is no question that the country is already unified, and that the party is now fully in the educative stage. What the people expect from the party is that we may be able to carry out our program to the fullest extent. It is only then that the party can be considered, in the real sense of the term, the leaders of the country. It is only then that those who desire to cooperate, may have a definite policy to go by. It is the firm belief of the present conference that all the party members and all the people in the country who realize the present conditions of the country and the need of positive accomplishments in our revolutionary endeavor will exert their utmost in supporting what we have decided upon and in helping to carry out our resolutions.

1. In order to fulfill the principles of the party we must see to it that the country is truly unified. In order, however, to have true unification we must abide by the injunctions of Dr. Sun to lay out a comprehensive constructive program and to improve the conditions of the country both in a spiritual and in a material sense. It is only under such circumstances that the militarists will have no room for expansion. The general policy laid down by the Third Party Congress is what the party acknowledges to be of great importance. But in the prosecution of these principles, if we do not have genuine unification, if the country does not give its entire support to the Government, it will be difficult not to find the Government confronted with all kinds of obstacles. The result is that the people will find reason to be disheartened which will eventually leave its scars in our constructive work. That is the reason why, in addition to carrying out our constructive schemes with all the energy we can muster, the party will still find it necessary to continue showing its revolutionary spirit and to remove all vestiges of the old régime both in their implicit and explicit forms. These vestiges encourage counter-revolutionary activities and are thus serious obstacles to the real unification of the country and to any endeavor of a constructive nature. That is the reason why the whole nation should regard them, in whatever form they appear, as our worst public enemy. This is the first point which we should bear in mind.

2. In order to carry out the principles of the party there is another consideration which we must bear in mind, and that is the attainment for China of a status of equality and complete freedom in the family of nations. So long as unequal treaties remain, all constructive schemes, however well thought out they may be, are of no avail, because as long as our political sovereignty is impaired, we are unable to exercise the fullest freedom in our constructive work. The abolition of the unequal treaties must therefore be an integral part of our revolutionary endeavor. We have seen what our efforts to abolish these unequal treaties have already meant for us within the last year. But we should continue to exert renewed energy on the work thus begun. The present con-

ference feels that in order to carry out the resolutions we have adopted we should first establish genuine equality of status for China. The unequal treaties must be done away with at whatever sacrifice. We should proceed with an attitude of determination, and with a method which is really practicable. This is the second point which we must bear in mind.

3. Training the people to exercise the five powers and establishing local self-government are important items in the program during the educative stage. These ideas are stated in Dr. Sun's two works, "The Principles of National Reconstruction" and "The Methods in the Promotion of Local Self-Government." If there are no solid achievements in local self-government, it will be difficult for the party and the Government to establish complete political democracy. In that case we shall not be in any better condition than the countries where the powers are delegated to an enlightened oligarchy, and the whole meaning of the term "educative" will be entirely lost. It will be difficult also under those circumstances to reduce the hardships of the people and to carry out any real constructive program. Fully acknowledging that the establishment of local self-government is the most important task of the present educative stage, the present conference has not only decided upon the means whereby local self-government will be promoted and the length of time in which local self-government for the *hsien* will be completed, but it has also decided to impress upon all party members that the promotion of local self-government is the most important part of their duty. Let all those, therefore, who call themselves the true followers of our late leader devote their entire energy to the promotion of local self-government. This is the third point which we should bear in mind.

4. Deciding upon the length of the educative period. The present conference has decided that the educative period should be one of six years and shall terminate by 1935. We are fully aware that in view of the vast extent of the country's territory, the wide discrepancies in the standard of the education of the people and also the possibilities of counter-revolutionary manifestations, we shall perhaps find six years much too short a period, especially as we are intrusted with so many responsibilities. But we hope the whole nation realizes that, after all, the one aim of the present revolution is that it may satisfactorily complete the educative period in the development of the nation so that the constitutional powers may ultimately be delegated to the people. The establishment of constitutionalism is not what the party alone should do everything to realize, but we hope that the whole country should be fully conscious of its great importance, and there should therefore be the fullest cooperation between the party and the nation. If we really fail to bring this educative period to a fruitful end and can not complete the revolutionary work for which Dr. Sun has made such considerable sacrifice, it will augur well neither for the party nor for the whole country. It is the wish of the party, therefore,

that the whole country will emphasize this essential aspect of our work. This is the fourth point we should bear in mind.

The above four considerations are what the party believes should be the main task of the nation to be fully carried out within the shortest period. The present conference feels that we really should entertain no fear for the militarists of the old régime, nor for counter-revolutionary activities, nor even for the dangers of feudalism. What we should really be afraid of is that we would not be able to carry out the spirit of Dr. Sun Yat-sen and courageously to complete the constructive program of the revolution. It is the further belief of the present conference that it is not difficult to suppress the aggression on the part of the imperalist powers nor is it difficult to establish complete equality of status for China in the family of nations. What we should really be afraid of is that the people will not be able to endure hardships and to show to others that the nation does not brook effrontery of any sort. What the present conference considers to be the greatest danger is when the nation shows inertia and moral lassitude. If we succeed in suppressing the militarists on the battlefield and are unable to conquer the habit of laziness, then, indeed, is it difficult for the nation to reap the fullest benefit from the revolution. If the party is unable to alleviate the sufferings of the people through a policy based upon established principles, and to arouse the confidence and respect of the people through actual constructive work, then what we have sacrificed is indeed something which we have frittered away. Without peace, it is really impossible to mitigate the sufferings of the people in China to-day. But in order to attain peace, we must have unification, and yet it is impossible to attain real unification without removing all the obstacles which the régime of militarism has chosen to cast upon the nation. In order to prevent the militarists from having their way, however, we must do all we can to show something constructive and to train the people in real political democracy. But again when we speak of constructive schemes, nothing can be accomplished without mustering all the forces of the nation into an organized unit. The casual relations between these factors are indeed irrefragable, so that the only way to remove all the difficulties whatsoever is to continue our struggle and our endeavor. It is only when all the party members and all the people in the nation cooperate to the fullest extent in pushing forward with the guidance of the principles of the party and show willingness to sacrifice and a firm determination to complete the educative period in an orderly manner that we shall be able to remove the sufferings of the people. Under these circumstances only can the nation establish a solid foundation. It is only thus that counter-revolutionary measures can be suppressed and national equality won. It is our hope that we shall be loyal and courageous, and present a united front in the attainment of our declared aims.

II. CHINESE TREATY REVISION

[NOTE. — China is making rapid progress in revising its "unequal treaties." New treaties made in 1928 with France, Great Britain, the Netherlands, Norway, Sweden and the United States were due to the willingness of these states to recast their tariff relations with China. The treaties of 1928 with Belgium, Denmark, Italy, Portugal and Spain were made as a result of the expiration of a conventional period of earlier treaties and Chinese use of that circumstance to bring about new agreements. The following notes illustrate stages of the negotiations leading to the conclusion of new treaties.]

1. American and British Policy

NOTE OF THE NATIONALIST MINISTER OF FOREIGN AFFAIRS (GENERAL HWANG FU) TO THE AMERICAN MINISTER, SHANGHAI, APRIL 2, 1928; DR. C. T. WANG TO THE BRITISH MINISTER, SHANGHAI, AUGUST 9, 1928 [1]

Referring to the notes exchanged this day on the subject of the settlement of the questions arising out of the Nanking incident of March 24, 1927, the minister for foreign affairs of the Nationalist Government has the honor to express the hope that a new epoch will begin in the diplomatic relations between China and the United States; and to suggest that further steps may be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

THE AMERICAN MINISTER TO CHINA, J. V. A. MACMURRAY, TO GENERAL HWANG FU, MINISTER FOR FOREIGN AFFAIRS, NANKING, APRIL 2, 1928 [2]

The American minister has the honor to acknowledge the receipt of a note of to-day's date in which the minister for foreign affairs expressed the hope that a new epoch would begin in the diplomatic relations between the United States and China and that further steps might be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

[1] The notes are identic, *mutatis mutandis*, the note to the British minister, however, being in the direct form of discourse. American text from Department of State release; British in Cmd. 3188 and *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 69.

[2] Reprinted from Department of State release.

Although the questions of treaty revision can scarcely be considered germane to that of amends to the American Government and its nationals for the Nanking incident, the American minister is not averse to setting forth at this time what he has already made known in that regard to the minister for foreign affairs in conversations with him last month.

It is unnecessary to recall the traditional friendship existing between the United States and China. As is manifest alike from the course of action consistently pursued by the American Government and from the statement of policy made by the Secretary of State on January 27, 1927,[1] the Government and the people of the United States are in full sympathy with the desire of the Chinese people to develop a sound national life of their own and to realize their aspirations for a sovereignty so far as possible unrestricted by obligations of an exceptional character. With that in view, the American Government entertains the hope that the remedying of the conditions which necessitated the incorporation of such provisions in the earlier treaties may from time to time afford opportunities for the revision, in due form and by mutual consent, of such treaty stipulations as may have become unnecessary or inappropriate.

To that end, the American Government looks forward to the hope that there may be developed an administration so far representative of the Chinese people, and so far exercising real authority, as to be capable of assuring the actual fulfilment in good faith of any obligations such as China would of necessity have for its part to undertake incidentally to the desired readjustment of treaty relations.

The British Minister, Sir Miles W. Lampson, to Dr. C. T. Wang, Minister for Foreign Affairs [2]

[*Shanghai, August 9, 1928.*]

Sir,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date in which you expressed the hope that a new epoch would begin in the diplomatic relations between Great Britain and China, and that further steps might be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

His Majesty's Government in Great Britain recognize the essential justice of the Chinese claim to treaty revision and in their declaration of December 18, 1926, and their seven proposals of January 28, 1927,[3] they have made their policy abundantly clear and have taken such

[1] For text see Hornbeck, *op. cit.*, p. 550.

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 70.

[3] League of Nations, *Official Journal*, Vol. VIII, p. 294.

practical steps as lay in their power to carry it into effect. In order to give further expression to the friendly and sympathetic attitude which they have always maintained towards China, His Majesty's Government in Great Britain are prepared in due course to enter into negotiations with the Nationalist Government, through their duly authorized representatives, on the subject of treaty revision. His Majesty's Government in Great Britain do not intend to allow the Nanking incident to alter their previous attitude towards China and prefer to consider it as an episode bearing no relation to their treaty revision policy.

I avail, etc.

(For His Majesty's Minister)
(Signed) SIDNEY BARTON.

2. The Sino-Japanese Negotiations

MEMORANDUM OF THE NATIONALIST GOVERNMENT, AUGUST 14, 1928 [1]

The Foreign Office of the Nationalist Government beg to acknowledge on August 7 the receipt of the note of the Japanese legation, dated July 31,[2] stating the interpretation of the text of the Sino-Japanese commercial treaty and the view of revising the same, and that the contents were carefully perused.

The Nationalist Government are pleased to note that the Japanese Government are prepared for the discussion of the revision of the treaty, the indication of which is received with profound expectation and sympathy, because the conclusion of a new treaty is the fundamental policy of the Nationalist Government for the sake of promoting international relations with Japan.

The Sino-Japanese commercial and navigation agreement, its annexed documents and protocols concluded in 1896, and the additional agreement made in 1903 were formed well nigh 30 years ago. During those 30 years, economic, business and national relations as well as political conditions of the two countries having undergone many changes; much is found in the treaties that does not conform with the prevailing state of affairs in the two countries. Should the treaty be enforced, many difficulties would arise and misunderstandings between the people would ensue.

Based on such reasons, the Nationalist Government think it proper to revise the treaty fundamentally at once and to conclude a new treaty on the principle of equality and reciprocity, in order that amity between China and Japan can be promoted. The Nationalist Government are aware that the Japanese Government, being sympathetic to China, will exert their efforts in perfect sincerity toward the enhancement of the common welfare of the two countries.

[1] *Week in China*, September 1, 1928, p. 3–5.

[2] This note and the Chinese notice of July 19, 1928, are not here reprinted; see *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 72.

According to the note of the Japanese minister, Art. 26 of the Sino-Japanese commercial treaty concluded in 1896 stipulates that, should in the future a party to the treaty desire to revise any article contained in it, it should be notified to the other party within six months after the expiration of the treaty and discussion thereanent should be had, and that in case no declaration is made by either party, the articles and tariff regulation contained in the treaty should remain unchanged for a future 10 years, after which they can be revised on the request of either or both parties.

Regarding the above, the Japanese minister seems to understand that when negotiations for revision are not completed in six months, the treaty and tariff regulations will be valid for further 10 years. The Nationalist Government hold that it should be interpreted that the validity is extended 10 years only in case the two countries do not declare its revision within six months after its expiration. In other words, if either party proposes its revision within six months after the expiration of the treaty, and negotiations have not been concluded within the stipulated period, the said treaty and tariff regulations shall cease to be valid.

The Nationalist Government, carefully observing the tide of international progress, the aspirations of the Chinese people and their economic and commercial conditions, learn that all unequal treaties or those not in conformity with the prevailing state of affairs in the country will obstruct international comity and guaranty for peace. Furthermore, as international relations change from time to time, there should be no treaty that can remain applicable at all times. Hence the attempts of the Nationalist Government for the abrogation or suspension of the treaty for the above-mentioned reason can not be called an action of disregarding international faith on their part. This is proved by the fact that the Foreign Office published a statement dated July 7,[1] declaring that all the treaties concluded between China and various countries, which expired, shall be abolished and new agreements shall be concluded, those that are still in force being revised through a proper procedure. Thus they established a distinction between those whose terms expired and those that have not, in order to show that they fully respect international faith. The Nationalist Government deeply regret the use of the language by the Japanese Government in their note, which has not been used in diplomatic notes.

The interim regulations made public on July 7 by the Nationalist Government are intended to be enforced in order to maintain political and commercial relations between the Chinese Republic and other countries when old treaties expired and new treaties have not yet been concluded, not intending to apply it to any special country. In view of the close and complicated relations between China and Japan, the Nationalist Government have given the subject careful consideration.

[1] *Cf.* statement of July 8, 1928, *supra*, p. 140.

Now that the Japanese Government express their willingness to consent to the negotiation of revision of the treaty with pleasure, the Nationalist Government will make preparations for parley in perfect sincerity.

In short, the only desire of the Nationalist Government is to conclude speedily a new treaty on an equal footing, respecting mutual sovereignty, to replace the old worn-out treaty which is unfair in the prevailing conditions. They are prompted by the desire of promoting international amity with Japan. What the Nationalist Government sincerely hope is to conclude the new treaty soon, because China and Japan being neighboring countries of a same race are interdependent in their existence and prosperity, thus enhancing the common welfare of the two countries. The Nationalist Government hope that the Japanese Government will detail a plenipotentiary soon in compliance with the note of the Foreign Office dated July 19, open negotiations within the shortest possible period, and accelerate the establishment of a new treaty in mutual sincerity, so that the international relations between China and Japan shall be further cemented and the friendship of their nationals can be solidly formed.

The Japanese Minister to the Chinese Minister for Foreign Affairs, April 26, 1929 [1]

[Translation by the Japanese legation at Peiping]

The Japanese minister has the honor, by the instructions of his Government, to communicate the following to the ministry of foreign affairs of the National Government of China in reply to the latter's memorandum of August 14, 1928, on the subject of the Sino-Japanese commercial treaty.

1. The National Government of China, founding solely on the Chinese text, construe Art. 26 of the Sino-Japanese commercial treaty as providing that in case either of the contracting parties declares its intention of revising the treaty and negotiation upon such revision is actually entered into within six months after the lapse of 10 years, the treaty shall no longer remain in effect, and they contend that inasmuch as the Government at Peking, in their note of October 20, 1926, proposed the revision of the treaty, making at the same time a reservation of the rights that would automatically accrue to them in case a new treaty should not be concluded within six months as provided for in the old treaty, they are unable to consent to the extension of the currency of the treaty.

As was shown, however, in the note of the Japanese minister under date of July 31, 1928, it is quite clear both from the Japanese and English texts that in case the negotiations respecting the revision of the treaty and the tariff are not effected within six months after the

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 59. *Cf.* text in *Japan Weekly Chronicle*, May 9, 1929, p. 535.

end of the current 10-year period, then the treaty and the tariff are to remain in force for another 10 years.

The Japanese Government can not but deeply regret that there should be any discrepancy of views upon a provision so free from ambiguity If there is really any room for different interpretations between the Japanese and Chinese texts, the English text, by Art. 28 of the treaty, is made decisive, and the English text, as above stated, being in complete accord with the Japanese.

The Japanese Government feel confirmed in the correctness of their construction. Furthermore, as pointed out in their memorandum of July 31, 1928, the Japanese Government, in accepting by their note of November 10, 1927, the proposal of the Peking Government for the revision of the treaty, made it clear that by virtue of Art. 26 of the treaty they declined to admit the Chinese reservation above mentioned, a point which they did not fail to emphasize at each succeeding extension of the period of negotiations.

That being the case, the so-called reservation of the National Government can not in any way have modified the provision of the treaty or have affected its validity.

2. It would seem that the National Government, taking it as absolutely permissible both in law and by usage to repudiate or suspend a treaty in reliance on the "principle of altered circumstances," on the one hand, propose the fundamental revision of the Sino-Japanese commercial treaty, and, on the other, endeavor to maintain, on that principle, their contention regarding the lapse of the treaty as set forth in their note of July 19, 1928.

But not only is the so-called principle of altered circumstances incapable of being regarded as an established rule of law in international relations, but the admission of such a principle would render almost all treaties liable to repudiation at the pleasure of either of the contracting parties, thus shaking the very foundations of international law. Nor is there any precedent where such a principle has ever had actual application. That there exists a specific provision concerning the validity of the treaty shows, not that the possibility of circumstances being altered in the future was not taken into consideration, but that care was taken that no such alteration of circumstances should of itself render the treaty null and void.

3. While the Japanese Government find it impossible to recede from the position they have hitherto taken on the question of the validity of the Sino-Japanese commercial treaty, they not only regard with the deepest sympathy the desire of the National Government to effect a revision of the treaty as soon as possible and so to enhance the friendly relationship between the two countries, but shall entertain the hope that the Chinese people may speedily achieve their great task of constructing a new régime on a sound basis, so that there may be harmony and tranquillity at home and cordial intercourse with Japan.

Should, therefore, the National Government show themselves so

far regardful of mutual good relations between Japan and China as to consent to regulate Sino-Japanese relations in accordance with the provisions of the existing treaty and on that basis propose its revision, the Japanese Government would be quite prepared to entertain such proposal and enter into negotiations with a view to effecting such revision of the treaty as may be deemed appropriate.

(Signed) K. YOSHIZAWA.

THE CHINESE MINISTER FOR FOREIGN AFFAIRS TO THE JAPANESE MINISTER, APRIL 27, 1929[1]

[Translation by the Japanese legation at Peiping]

The minister for foreign affairs of the National Government of China has the honor to acknowledge receipt of the memorandum of the Japanese legation under date of April 26, the contents of which have been carefully noted.

The views and assertions of the National Government in regard to the construction of the Sino-Japanese treaty were fully and clearly set forth in the memorandum addressed to the Japanese minister under the date of August 14, 1928. The question of the validity of the treaty, as stated before, is therefore so plain as hardly to call for further argument. Moreover, as an understanding has been reached between the two Governments in regard to their difference of views on the legal side of the question, the minister has no intention to discuss the matter further. Accordingly, the National Government are ready immediately and in all sincerity to enter into negotiations, in the hope that in the shortest possible time a new treaty might be concluded on the basis of equality and of mutual respect for sovereign rights.

(Signed) CHENTING T. WANG.

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 61. *Cf.* text in *Japan Weekly Chronicle*, May 9, 1929, p. 536.

III. SETTLEMENT OF THE NANKING INCIDENT OF MARCH 24, 1927

1. Verification of Injuries and Damages [1]

NOTE OF THE NATIONALIST MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN MINISTER, SHANGHAI, APRIL 2, 1928; TO THE BRITISH MINISTER, SHANGHAI, AUGUST 9, 1928, AND TO THE JAPANESE MINISTER, NANKING, MAY 2, 1929 [2]

With reference to the Nanking incident which took place on the 24th of March last year, the minister for foreign affairs of the Nationalist Government has the honor to inform the American minister that, animated by a desire to promote the most friendly feelings happily subsisting between the American and Chinese peoples, the Nationalist Government are prepared to bring about an immediate settlement of the case, along the lines already agreed upon as a result of the discussions between us beginning from the 26th of February this year.

In the name of the Nationalist Government, the minister for foreign affairs has the honor to convey in the sincerest manner to the Government of the United States of America their profound regret at the indignities [3] to the American flag and to official representatives of that Government, the loss of property sustained by the American consulate and the personal injuries and material damages done to the American residents. Although it has been found, after investigation of the incident, that it was entirely instigated by the communists prior to the establishment of the Nationalist Government at Nanking, the Nationalist Government nevertheless accept the responsibility therefor.

[1] The notes are identic except as annotated but the British and Japanese exchanges are uniformly couched in the direct form of discourse.

The corresponding exchanges with the French chargé d'affaires of October 1, 1928, and with the Italian minister of October 8, 1928, are to the same effect, but differ in the omission of detailed statements. Neither note refers to the disbandment of offending troops. The replies while completely responsive also differ from those printed below, the French note being couched in particularly cordial terms. *North China Herald*, October 20, 1928, p. 81.

[2] American text from Department of State release; British from Cmd. 3188 and *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 67; Japanese from *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 62.

[3] The British note reads: "indignities and injuries inflicted upon official representatives of His Majesty's Government, the loss of property sustained by the British consulate, and the personal injuries and material damage done to the British residents."

The Japanese note reads: "indignities, property damage and personal injuries sustained by officials of the Japanese consulate and other Japanese residents."

The Nationalist Government have in pursuance of their established policy, repeatedly issued orders to the civil and military authorities for the continuous and effective protection of the lives and property of American residents in China.

With the extermination of the communists and their evil influences which tended to impair the friendly relations between the Chinese and American peoples, the Nationalist Government feel confident that the task of protecting foreigners will henceforth be rendered easier; and the Nationalist Government undertake specifically that there will be no similar violence or agitation against American lives or legitimate interests.

In this connection, the minister for foreign affairs has the pleasure to add that the troops of the particular division which took part in the unfortunate incident, at the instigation of the communists, have been disbanded. The Nationalist Government have in addition taken effective steps for the punishment of the soldiers and other persons implicated.

In accordance with the well-accepted principles of international law, the Nationalist Government undertake to make compensation in full for all personal injuries and material damages[1] done to the American consulate and to its officials and to American residents and their property at Nanking.

The Nationalist Government propose that for this purpose there be a Sino-American joint commission to verify the actual injuries and damages suffered by the American residents at the hands of the Chinese concerned, and to assess the amount of compensation due in each case.[2]

The American Minister to China, J. V. A. MacMurray, to General Hwang Fu, Minister for Foreign Affairs, Nanking[3]

[*Shanghai, April 2, 1928.*]

The American minister has the honor to acknowledge the receipt of the note of this day's date from the minister for foreign affairs, which reads as follows:

[Here follows the note in full.]

In the full realization of the inherent justice and honor of the Chinese people when not affected by the incitations of subversive influ-

[1] The British note reads: "damage done to the British consulate and to its officials and to British residents and their property at Nanking."

The Japanese note reads: "damage done to the Japanese consulate, Japanese officials and other Japanese residents at Nanking."

[2] The Sino-American joint commission completed its work and signed its report March 12, 1929 (*North China Herald*, March 16, 1929, p. 434). It has later been announced that the total of the awards amounts to $887,177.58 silver (*Current History*, September, 1929, Vol. 30, p. 1176).

[3] The notes were actually exchanged between E. S. Cunningham, the American consul-general at Shanghai, and Quo Tai-chi, Chinese commissioner for foreign affairs.

ences, and with a deep appreciation of the sorrow and humiliation caused to all elements of that people by the Nanking incident, and believing that the earnest given as to the punishment of those guilty of the incident will be completely fulfilled at the earliest opportunity — particularly as regards Liu Tsu-han, who was personally responsible for the incident — the American minister accepts in behalf of his Government the terms set forth in the note from the minister for foreign affairs in definite settlement of the questions arising out of that incident.

Confident of the spirit of sincerity in which the present settlement has been made, the American Government look to the loyal fulfillment of the said terms of settlement as affording a measure of the good faith and good will with which it may anticipate being met, by the Nanking authorities, in other phases of the relationships between the American and the Chinese peoples.

THE BRITISH MINISTER, SIR MILES W. LAMPSON, TO DR. C. T. WANG, MINISTER FOR FOREIGN AFFAIRS[1]

[*Shanghai, August 9, 1928.*]

SIR,

I have the honor to acknowledge the receipt of Your Excellency's note of this day's date which reads as follows.

[Here follows in full the note addressed to the British minister; see recension of text above.]

I have also taken note of the orders recently issued by the Nationalist Government regarding the punishment of those implicated and regarding the prevention of similar incidents in the future, and believing that prompt and full effect will be given to the intentions so expressed, I accept on behalf of His Majesty's Government in Great Britain Your Excellency's note in settlement of the demands contained in the communication of April 11, 1927, addressed to the former minister for foreign affairs.

I avail myself, etc.

(For His Majesty's Minister)

(Signed) SIDNEY BARTON,
H. B. M. Consul-General at Shanghai.

THE JAPANESE MINISTER TO DR. C. T. WANG, MINISTER FOR FOREIGN AFFAIRS[2]

M. LE MINISTRE,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date, and I beg to express agreement to the proposal

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 68.

[2] *Japan Weekly Chronicle*, May 16, 1929, p. 559.

made in the said note and to add that in case the National Government fully discharge their obligations above mentioned in the shortest possible period of time, all questions arising from the Nanking incident will be regarded as finally settled.

May 2nd, 1929.

2. Use of War Vessels — Expressions of Regret

NOTE OF THE NATIONALIST MINISTER FOR FOREIGN AFFAIRS (GENERAL HWANG FU) TO THE AMERICAN MINISTER, SHANGHAI, APRIL 2, 1928, AND OF DR. C. T. WANG TO THE BRITISH MINISTER, SHANGHAI, AUGUST 9, 1928

Referring to the notes exchanged this day on the subject of the settlement of the questions arising out of the Nanking incident of March 24, 1927, the minister for foreign affairs of the Nationalist Government has the honor to invite the attention of the American minister to the fact that on that date fire was opened upon Socony Hill, at Nanking, by the American war vessels, *Noa* and *Preston*,[1] then lying in port. In view of this fact, the Nationalist Government earnestly hope that the American Government will express regret at this action.

THE AMERICAN MINISTER TO CHINA, J. V. A. MACMURRAY, TO GENERAL HWANG FU, MINISTER FOR FOREIGN AFFAIRS, NANKING, APRIL 2, 1928 [2]

The American minister has the honor to acknowledge the receipt of a note of to-day's date from the minister for foreign affairs, in which reference was made to the fact that on March 24, 1927, the American war vessels, *Noa* and *Preston*,[3] then lying in port, opened fire upon Standard Oil Company hill at Nanking, and in which the hope was expressed that the American Government would indicate their regret at this action. In reply, the American minister has to point out that the firing referred to was in fact a protective barrage, strictly confined to the immediate neighborhood of the house[4] in which the American consul and his family and staff, together with many others, had been driven to seek refuge from the assaults of an unrestrained soldiery: and not only did it provide the only conceivable means by which the lives of this party were saved from the danger that immediately threatened them, but it also made possible the

[1] The note to the British minister reads: "British war vessel H. M. S. *Emerald*."

[2] The notes were actually exchanged between E. S. Cunningham, the American consul-general at Shanghai, the Quo Tai-chi, Chinese commissioner for foreign affairs.

[3] The British note reads: "H. M. S. *Emerald*."

[4] The British note reads: "foreign houses, in which a number of British subjects had," etc.

evacuation of the other Americans[1] residing at Nanking, who were in actual peril of their lives. The American Government therefore feels that its naval vessels had no alternative to the action taken, however deeply it deplores that circumstances beyond its control should have necessitated the adoption of such measures for the protection of the lives of its citizens at Nanking.

The British Minister, Sir Miles W. Lampson, to Dr. C. T. Wang, Minister for Foreign Affairs[2]

[*Shanghai, August 9, 1928*]

[The minister's note is identic with the two paragraphs of the American note except that it refers to "the British war vessel H. M. S. *Emerald*."]

The third paragraph reads:

His Majesty's Government in Great Britain therefore feel that the measures taken by H. M. S. *Emerald* were absolutely necessary for the protection of British life and property, however deeply they may deplore the fact that the circumstances at Nanking on March 24, 1927, were such as to render necessary the adoption of these measures.

[1] The British note reads: "of other British residents at Nanking."

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 69.

IV. CHINESE TARIFF AUTONOMY

1. Treaty regulating Tariff Relations between the United States of America and the Republic of China [1]

Signed at Peiping, July 25, 1928; ratifications exchanged at Washington, February 20, 1929; proclaimed, February 23, 1929

[NOTE. — The text below is the form adopted (except for Great Britain) for establishing Chinese tariff autonomy with respect to states whose customs or commercial treaties were either made without time limit or for which the term for periodical revision had not arrived. The text of the following treaties is essentially identic and has the effect of annulling cognate provisions in the previous treaties then in force. The last treaty containing provisions limiting the right of China to determine its own tariff was the treaty relating to the Chinese customs tariff, signed at the Washington Conference, which was in force for the five states noted below and for Great Britain. In the cases where the treaties have been registered with the Secretariat of the League of Nations, the League registration number is given.

France: Treaty regulating customs relations, signed at Nanking, December 22, 1928; for annulment see annex below.

Netherlands: Treaty regulating tariff relations, signed at Nanking, December 19, 1928.

Norway: Treaty regulating tariff relations, signed at Shanghai, November 12, 1928; in force from March 1, 1929; Reg. No. 1983.

Sweden: Treaty regulating tariff relations, signed at Nanking, December 20, 1928.

United States: Treaty regulating tariff relations, signed at Peiping, July 25, 1928; ratifications exchanged, February 20, 1929; proclaimed, February 23, 1929.]

[Excerpt]

ART. I. All provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply subject, however, to the condition that each of the high contracting parties shall enjoy in the territories [2] of the other with respect to the above specified and any related matters treatment in

[1] United States, *Treaty Series*, No. 773. For the other four treaties, see *China Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 7 *ff*.

[2] The Netherlands treaty reads: "territories, possessions and colonies."

no way discriminatory as compared with the treatment accorded to any other country.

The nationals of neither of the high contracting parties shall be compelled under any pretext whatever to pay within the territories of the other party any duties, internal charges or taxes upon their importations and exportations other or higher than those paid by nationals of the country or by nationals of any other country.

The above provisions shall become effective on January 1, 1929, provided that the exchange of ratifications hereinafter provided shall have taken place by that date; otherwise, at a date four months subsequent to such exchange of ratifications.[1]

France — Special Conditions

Annex I[2]

Nanking, December 22, 1928.

M. le Ministre,

Referring to Art. I of the treaty concluded on this date, I have the honor of confirming to you that the minimum French tariff will continue to be applied to the Chinese merchandise enumerated on the enclosed list until the conclusion of the understanding referred to in the following paragraphs.

For the other articles in favor of which the Chinese Government wishes to obtain the benefit of the minimum French tariff, because it is impossible for the French Government, on account of its tariff legislation, to accord this tariff *en bloc*, it is understood that a separate reciprocal tariff convention will be negotiated.

Accept, M. le Ministre, the assurances of my highest consideration.

(Signed) D. de Martel.

H. E. Dr. Chengting T. Wang,
Minister of Foreign Affairs, Nanking.

List of Chinese Articles to be Admitted to France under the Minimum Tariff

Tissue de sois pure (pure silk goods)
Foulards de sois pure (silk foulards)
Crêpes de sois pure (silk crepes)
Tulles de sois pure (silk tulles)
Passementéries de sois pure (silk laces)

[1] This paragraph omitted in the treaties with France, Netherlands, Norway and Sweden.

[2] The alternat letter, which is fully responsive, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 43.

Poivre (pepper)
Piment (pimento)
Cannelle (cinnamon)
Muscade en coque et sans coque (nutmeg ground and unground)
Girofle (cloves)
Thé (tea)

Annex II[1]

Nanking, December 22, 1928.

M. le Ministre,

In the course of the negotiations which have been held, we have studied, in a spirit of friendly equality, various questions pending between our two countries, and I wish to state precisely, as follows, the results of our exchange of views.

1. The French Government is disposed to start without delay negotiation for the conclusion of a new convention designed to replace the Franco-Chinese convention of April 25, 1886, the supplementary convention of commerce of June 26, 1887, and the convention supplementary to this one dated June 10, 1895.

In the interests of the two Governments, no change will be made from present conditions in relation to Indo-China during the negotiations, it being understood that the principle of the uniformity of tariff charges on land and sea frontiers is to be applied, so that the tariff enforced on the Chinese maritime frontiers will be simultaneously applied at the Indo-Chinese frontier. In the meantime, the present reductions in the duties on imports and exports will remain in force during the negotiations, which the French Government is disposed, on its part, to conclude promptly.

2. In the interests of the development of Franco-Chinese economic relations, it is necessary that excessive taxes shall not be imposed on merchandise.

For this reason, the abolition of *likin* has seemed desirable to both the French and Chinese Governments. Likewise, the imposition of the tariff charges referred to above and of provincial taxes designed to replace *likin*, would be likely to paralyze trade. The French Government does not doubt that the Chinese Government will abolish *likin* with the least possible delay, after the coming into force of the new customs régime and will effectively prevent the establishment of the said provincial taxes.

3. The service of the interest on certain French financial loans concluded by the Government of China at present is interrupted by lack of resources. The assignment of a part of the additional receipts furnished by the customs for the service of these loans will constitute

[1] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 44.

a measure appropriate to the active development of Franco-Chinese economic relations, and the French Government has no doubt that the National Government will put the necessary arrangements into effect.

Accept, M. le Ministre, the assurances of my highest consideration.

(Signed) D. DE MARTEL.

H. E. DR. CHENGTING T. WANG,
Minister of Foreign Affairs, Nanking.

Annex III[1]

Ministry of Foreign Affairs,
Nanking, December 22, 1928.

M. LE MINISTRE,

I have the honor to inform you that the National Government hopes to conclude with the French Government, before March 31, 1929, a new convention concerning Indo-China, the negotiation of which already has been discussed.

In the meantime, the arrangements relative to the reduction of duties on imports and exports on the frontier of Indo-China, the arrangements to which reference was made in Your Excellency's letter of this date, will cease to be in force after March 31, 1929, even if the new convention be not then completed.

Accept, M. le Ministre, the assurances of my highest consideration.

(Signed) CHENGTING T. WANG.

H. E. LE COMTE MARTEL,
Envoy Extraordinary and Minister Plenipotentiary
of the French Republic to China.

NETHERLANDS — SPECIAL CONDITIONS[2]

Ministry of Foreign Affairs,
Nanking, December 19, 1928.

M. LE MINISTRE,

In reply to Your Excellency's note of to-day's date I have the honor to state that with a view to eliminating all possible doubts with respect to the meaning and the scope of Art. I of the treaty regulating tariff relations between China and the Netherlands which we have

[1] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 46.

[2] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 30.

signed to-day, my Government holds that the said article also includes the following:

That there shall not be levied on the produce or the manufactures of either of the high contracting parties on their importation into the territories, possessions or colonies of the other party, nor on the produce and the manufactures of either of the high contracting parties on their exportation to the territories, possessions or colonies of the other party, any duties, internal charges or taxes other or higher than are now or may hereafter be imposed on the like articles when imported from or when exported to any other country.

It is understood that Your Excellency's note and this reply thereto shall have the same force between the two high contracting parties as the treaty itself.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) CHENGTING T. WANG.

His Excellency
Mr. WILLEM JACOB OUDENDIJK,
Netherlands Minister to China, Nanking.

2. Treaty between His Britannic Majesty and the President of the Chinese Republic relating to the Chinese Customs Tariff, etc., with the Annexes thereto [1]

Signed at Nanking, December 20, 1928; in force February 1, 1929; ratifications exchanged at London, March 14, 1929

[Excerpt]

ART. 1. It is agreed that all provisions of the existing treaties between the high contracting parties which limit in any way the right of China to settle her national customs tariff in such way as she may think fit are hereby abrogated, and that the principle of complete national tariff autonomy shall apply.

ART. 2. The nationals of either of the high contracting parties shall not be compelled under any pretext whatsoever to pay in China and the territories of His Britannic Majesty to which the present treaty applies respectively any duties, internal charges or taxes upon goods imported or exported by them other than or higher than those paid on goods of the same origin by Chinese and British nationals respectively, or by nationals of any other foreign country.

ART. 3. His Britannic Majesty agrees to the abrogation of all provisions of the existing treaties between the high contracting parties which limit the right of China to impose tonnage dues at such rates as she may think fit.

[1] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319. The treaty contains no provision concerning abrogation.

In regard to tonnage dues and all matters connected therewith, British ships in China and Chinese ships in those territories of His Britannic Majesty to which the present treaty applies, shall receive treatment not less favorable than that accorded to the ships of any other foreign country.

Annex I — Dr. Wang to Sir M. Lampson[1]

Ministry of Foreign Affairs,
Nanking, December 20, 1928.

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date, reading as follows:

"With reference to the treaty concluded this day between His Britannic Majesty and the president of the National Government of the Republic of China, I have the honor to request that Your Excellency will be good enough to confirm my understanding that:

"1. Articles produced or manufactured in those territories of His Britannic Majesty to which the present treaty applies, and imported into China, and reciprocally articles produced or manufactured in China and imported into the said territories of His Britannic Majesty, from whatever place arriving, shall receive, as regards import duties, internal taxation, transit dues and all matters connected therewith, treatment not less favorable than that accorded to goods the produce or manufacture of any foreign country.

"2. Articles produced or manufactured in China and exported to those territories of His Britannic Majesty to which the present treaty applies, and reciprocally articles produced or manufactured in the said territories of His Britannic Majesty and exported to China, shall receive, as regards export duties, internal taxation and transit dues, levied before export, and all matters connected therewith, treatment not less favorable than that accorded to goods exported to any other foreign country."

I hereby confirm that your understanding is correct.

I avail, etc.

Chengting T. Wang.

Annex II — Dr. Wang to Sir M. Lampson[2]

Ministry of Foreign Affairs,
Nanking, December 20, 1928.

Excellency,

I hereby take note of the renunciation by His Britannic Majesty of the rights of His Governments in Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa and the Irish Free

[1] The alternat letter of Sir Miles W. Lampson to Dr. Wang omitted.

[2] *Ibid.*

State, and of the Government of India, as from the entry into force of the treaty concluded this day between His Britannic Majesty and the president of the National Government of the Republic of China to benefit by the provisions of existing treaties which limit in any way the right of China to settle her customs tariff or to impose tonnage dues at such rates as she may think fit. I also take note of the renunciation by His Majesty of His rights in respect of Newfoundland, Southern Rhodesia and all His non-self-governing colonies and protectorates.

I have the honor, on behalf of the National Government of the Republic of China, to assure you that goods produced or manufactured in any of the parts of His Majesty's territories mentioned above or in any of the territories under their administration or in any territory under His Majesty's suzerainty or in any territory in respect of which a mandate is exercised by His Majesty's Government in Great Britain, the Commonwealth of Australia, New Zealand or the Union of South Africa will receive most-favored-nation treatment in China, so long as goods produced or manufactured in China receive in such territory treatment as favorable as that accorded to goods produced or manufactured in any other foreign country.

I have also to assure you, on behalf of the National Government of the Republic of China, that articles produced or manufactured in China and exported to any of the territories mentioned above will receive most-favored-nation treatment as regards export duties, internal taxation or transit dues, levied before export, or matters connected therewith, so long as goods produced or manufactured in such territory and exported to China receive in corresponding matters treatment as favorable as that accorded to goods exported to any other foreign country.

I avail, etc.

CHENGTING T. WANG.

ANNEX III — DR. WANG TO SIR M. LAMPSON[1]

Ministry of Foreign Affairs,
Nanking, December 20, 1928.

EXCELLENCY,

With reference to Your Excellency's note of to-day's date, I have the honor to confirm the correctness of your understanding that the ad valorem rates of duty or the specific rates based thereon in the national customs tariff to be adopted by the National Government are the same as the rates which were discussed and provisionally agreed upon at the tariff conference in 1926 and that these are the maximum rates to be levied on British goods; furthermore, that these will remain the maximum rates on such goods for a period of at least one

[1] The alternat letter of Sir Miles W. Lampson to Dr. Wang omitted.

year from the date of enforcement of the tariff; and that two months' notice will be given of the coming into force of the said tariff.

Furthermore, I am glad to be able to confirm, on behalf of the National Government, the terms of their proclamation of the 20th July, 1927, and to give you the assurance which you request that it is their intention that goods having once paid import duty to the maritime customs in accordance with the rates imposed in the new or any subsequent national tariff will be freed as soon as possible from any levies of the nature specified in the above-mentioned proclamation.[1]

I avail, etc.

CHENGTING T. WANG.

ANNEX IV — SIR M. LAMPSON TO DR. WANG[2]

Nanking, December 20, 1928.

SIR,

I have the honor to acknowledge receipt of the note of to-day's date in which Your Excellency declares on behalf of the National Government of the Republic of China that it is their intention to apply the new customs tariff uniformly on all land and sea frontiers of China and that, as from the date of the coming into force of the new tariff, the preferential rates at present levied on goods imported or exported by land frontier will accordingly be abolished.

I have taken due note of this declaration, with which His Majesty's Government in Great Britain are in full agreement.

I avail, etc.

MILES [W.] LAMPSON.

[Exchanges of notes of even date (1) regarding the treatment of Chinese nationals in the British Dominions, India, British colonies and British protectorates and (2) regarding the import and export of goods by land between India and China, while not a part of the treaty, were published with it.]

3. Preliminary Treaty of Amity and Commerce between the Republic of China and the Kingdom of Italy[3]

Signed at Nanking, November 27, 1928; in force July, 1929

[NOTE. — The text below is the form adopted for establishing Chinese tariff autonomy with Germany and with respect to states whose customs or commercial treaties have reached the end of a 10-year

[1] The proclamation specifies "likin, native customs, coast trade duties and all other taxes on imported goods whether levied in transit or on arrival at destination."

[2] The alternat letter of Dr. C. T. Wang to Sir Miles W. Lampson omitted.

[3] The *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 13–17.

period mentioned therein. Chinese policy respecting that period is indicated in the notes exchanged with Japan printed under Appendix II, No. 2. The form of the articles and annexes respecting tariff autonomy in these preliminary treaties of amity and commerce are essentially identic except as indicated by annotations to the text. The last treaty containing provisions limiting the right of China to determine its own tariff was the treaty relating to the Chinese customs tariff, signed at the Washington Conference, which was in force for all the states listed below with the exception of Austria and Germany. In the cases where the treaties have been registered with the Secretariat of the League of Nations, the League registration number is given. The text given in the Sino-Italian treaty is employed in the following:

Austria: Treaty of commerce, signed at Vienna, October 19, 1925; in force from September 15, 1926; Reg. No. 1301.

Belgium and Luxemburg: Preliminary treaty of amity and commerce, signed at Nanking, November 22, 1928; superseding provisions of treaty of Peking, November 2, 1865 (10-year period expired October 27, 1926); in force from February 28, 1929; Reg. No. 1975.

Denmark: Preliminary treaty of amity and commerce, signed at Nanking, December 12, 1928; superseding provisions of treaty of Tientsin, July 13, 1863 (10-year period expired June 30, 1928); in force from June 12, 1929; Reg. No. 2062.

Germany: Treaty of commerce, signed at Nanking, August 17, 1928; supplements and modifies provisions of treaty of May 20, 1921; in force from January 21, 1929; Reg. No. 2057.

Italy: Preliminary treaty of amity and commerce, signed at Nanking, November 27, 1928; superseding provisions of treaty of October 26, 1866 (10-year period expired June 30, 1928); in force from July, 1929; Reg. No. .

Portugal: Preliminary treaty of amity and commerce, signed at Nanking, December 19, 1928; superseding provisions of treaty of Peking, December 1, 1887 (10-year period expired April 28, 1928).

Spain: Preliminary treaty of amity and commerce, signed at Nanking, December 27, 1928; superseding provisions of treaty of Tientsin, October 10, 1864 (10-year period expired November 10, 1927).]

ART. I.[1] The two high contracting parties agree that the customs tariff and all matters related thereto shall be regulated exclusively by their respective national legislations.

It is further agreed that each of the high contracting parties shall enjoy in the territory of the other, with regard to customs and all related matters, treatment in no way less favorable than the treatment accorded to any other country.

The nationals of each of the high contracting parties shall not be compelled, under any pretext whatever, to pay within the territories

[1] The Sino-German, Sino-Austrian and Belgian treaties are identic in meaning rather than expression.

of the other party any duties,[1] internal charges or taxes upon the importation or exportation of goods, other or higher than those paid by the nationals of the country or by the nationals of any other country.

PORTUGAL — SPECIAL CONDITIONS[2]

Annex V

Ministry of Foreign Affairs,
Nanking, December 19, 1928.

M. LE MINISTRE,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date which reads as follows:

"With reference to Art. I of the treaty signed between us this day, I have the honor to request Your Excellency to confirm my understanding that the said article shall be interpreted to include the following principle:

"Articles produced or manufactured in the territory of either of the high contracting parties shall not be subject, on their importation into the territory of the other party or on their exportation from its own territory to the territory of the other party, to any duties, internal charges or taxes other or higher than those paid, respectively, on like articles produced or manufactured in and imported from any other country, or on like articles produced or manufactured in the country and exported to any other country."

I have the honor to confirm the correctness of the above.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) CHENGTING T. WANG.

His Excellency
Mr. JOAO ANTONIO DE BIANCHI,
Portuguese Minister to China, Nanking.

[1] The Belgian treaty, which is not uniformly identic in expression, here reads: "customs dues, transit taxes or taxes of any other kind."

[2] The *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 26. The alternat letter, which is identic, *mutatis mutandis*, is omitted.

Annex VI [1]

Nanking, December 19, 1928.

M. le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date which reads as follows:

"Referring to the treaty signed between us this day and the annexes thereto, I have the honor to state that it is my understanding that the word 'territory' or 'territories' used in the said treaty as well as in the declarations and notes exchanged, includes the possessions and colonies of each of the high contracting parties."

I have the honor to confirm the correctness of the above.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) Joao Antonio de Bianchi.

His Excellency
Dr. Chengting T. Wang,
Minister for Foreign Affairs, Nanking.

[1] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 27.

V. EXTRATERRITORIALITY IN CHINA

1. Recommendations in the Report to the Governments of the Commission on Extraterritoriality in China. Peking, September 16, 1926 [1]

Part IV

The commissioners, having completed their investigations and having made their findings of fact as set forth in Parts I, II and III of this report, now make the following recommendations.

The commissioners are of the opinion that, when these recommendations shall have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights of extraterritoriality.

It is understood that, upon the relinquishment of extraterritoriality, the nationals of the powers concerned will enjoy freedom of residence and trade and civil rights in all parts of China in accordance and with the general practice in intercourse among nations and upon a fair and equitable basis.

Recommendations

I. The administration of justice with respect to the civilian population in China must be intrusted to a judiciary which shall be effectively protected against any unwarranted interference by the executive or other branches of the Government, whether civil or military.

II. The Chinese Government should adopt the following program for the improvement of the existing legal, judicial and prison systems of China:

1. It should consider Parts II and III of this report relating to the laws and to the judicial, police and prison systems, with a view to making such amendments and taking such action as may be necessary to meet the observations there made.

2. It should complete and put into force the following laws:

(1) Civil code.
(2) Commercial code (including negotiable instruments law, maritime law and insurance law).
(3) Revised criminal code.
(4) Banking law.
(5) Bankruptcy law.
(6) Patent law.
(7) Land expropriation law.
(8) Law concerning notaries public.

[1] *Report of the Commission on Extraterritoriality in China*, 1926, p. 107.

3. It should establish and maintain a uniform system for the regular enactment, promulgation and rescission of laws, so that there may be no uncertainty as to the laws of China.

4. It should extend the system of modern courts, modern prisons and modern detention houses with a view to the elimination of the magistrates' courts and of the old-style prisons and detention houses.

5. It should make adequate financial provision for the maintenance of courts, detention houses and prisons, and their personnel.

III. It is suggested that, prior to the reasonable compliance with all the recommendations above mentioned but after the principal items thereof have been carried out, the powers concerned, if so desired by the Chinese Government, might consider the abolition of extraterritoriality according to such progressive scheme (whether geographical, partial or otherwise) as may be agreed upon.

IV. Pending the abolition of extraterritoriality, the Governments of the powers concerned should consider Part I of this report with a view to meeting the observations there made and, with the cooperation of the Chinese Government wherever necessary, should make certain modifications in the existing systems and practice of extraterritoriality as follows:

1. *Application of Chinese laws.* The powers concerned should administer, so far as practicable, in their extraterritorial or consular courts such laws and regulations of China as they may deem it proper to adopt.

2. *Mixed cases and mixed courts.* As a general rule mixed cases between nationals of the powers concerned as plaintiffs and persons under Chinese jurisdiction as defendants should be tried before the modern Chinese courts (Shen P'an T'ing) without the presence of a foreign assessor to watch the proceedings or otherwise participate. With regard to the existing special mixed courts, their organization and procedure should, as far as the special conditions in the settlements and concessions warrant, be brought more into accord with the organization and procedure of the modern Chinese judicial system. Lawyers who are nationals of extraterritorial powers and who are qualified to appear before the extraterritorial or consular courts should be permitted, subject to the laws and regulations governing Chinese lawyers, to represent clients, foreign or Chinese, in all mixed cases. No examination should be required as a qualification for practice in such cases.

3. *Nationals of extraterritorial powers.* (*a*) The extraterritorial powers should correct certain abuses which have arisen through the extension of foreign protection to Chinese as well as to business and shipping interests the actual ownership of which is wholly or mainly Chinese.

(*b*) The extraterritorial powers which do not now require compulsory periodical registration of their nationals in China should make provision for such registration at definite intervals.

4. *Judicial assistance.* Necessary arrangements should be made in regard to judicial assistance (including *commissions rogatoires*) between the Chinese authorities and the authorities of the extraterritorial powers and between the authorities of the extraterritorial powers themselves, *e.g.*:

(*a*) All agreements between foreigners and persons under Chinese jurisdiction which provide for the settlement of civil matters by arbitration should be recognized, and the awards made in pursuance thereof should be enforced, by the extraterritorial or consular courts in the case of persons under their jurisdiction and by the Chinese courts in the case of persons under their jurisdiction, except when in the opinion of the competent court, the decision is contrary to public order or good morals.

(*b*) Satisfactory arrangements should be made between the Chinese Government and the powers concerned for the prompt execution of judgments, summonses and warrants of arrest or search, concerning persons under Chinese jurisdiction, duly issued by the Chinese courts and certified by the competent Chinese authorities and *vice versa.*

5. *Taxation.* Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.

Signed in the City of Peking, September 16, 1926.

For the United States of America:	SILAS H. STRAWN
For Belgium:	A. VAN CUTSEM
For the British Empire:	SKINNER TURNER
For China:	WANG CHUNG-HUI By signing this report my approval of all the statements contained in Parts I, II and III is not to be implied.
For Denmark:	L. P. TILLITSE
For France:	G. CH. TOUSSAINT
For Italy:	G. DE ROSSI
For Japan:	SADAO SABURI
For the Netherlands:	A. D. A. DE KAT ANGELINO
For Norway:	JOHAN MICHELET
For Portugal:	J. A. DE BIANCHI
For Spain:	MANUEL ACAL Y MARIN
For Sweden:	CARL LEIJOHNHUFVUD

2. Preliminary Treaty of Amity and Commerce between the Republic of China and the Kingdom of Italy.[1] Signed at Nanking, November 27, 1928

[NOTE. — The text below is the form adopted for renouncing in principle extraterritoriality in China by those states whose customs or commercial treaties have reached the end of a 10-year period mentioned therein. Chinese policy respecting that period is indicated in the notes exchanged with Japan printed under Appendix II, No. 2, *supra*. The form of the articles and annexes respecting extraterritoriality in these preliminary treaties of amity and commerce are identic except as indicated by annotations to the text. The text given is employed in the following:

Belgium and Luxemburg: Preliminary treaty of amity and commerce, signed at Nanking, November 22, 1928; superseding provisions of treaty of Peking, November 2, 1865 (10-year period expired October 27, 1926); in force from February 28, 1929; Reg. No. 1975.

Denmark: Preliminary treaty of amity and commerce, signed at Nanking, December 12, 1928; superseding provisions of treaty of Tientsin, July 13, 1863 (10-year period expired June 30, 1928); in force from June 12, 1929; Reg. No. 2062.

Portugal: Preliminary treaty of amity and commerce, signed at Nanking, December 19, 1928; superseding provisions of treaty of Peking, December 1, 1887 (10-year period expired April 28, 1928).

Spain: Preliminary treaty of amity and commerce, signed at Nanking, December 27, 1928; superseding provisions of treaty of Tientsin, October 10, 1864 (10-year period expired November 10, 1927).]

ART. II. The nationals of each of the two high contracting parties shall be subject, in the territory of the other party, to the laws and jurisdiction of the law courts of that party,[2] to which they shall have free and easy access for the enforcement and defense of their rights.

ART. III.[3] The two high contracting parties have decided to enter as soon as possible into negotiations for the purpose of concluding a treaty of commerce and navigation based on the principles of absolute equality and nondiscrimination[4] in their commercial relations and mutual respect for sovereignty.

[1] The *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 13–17.

[2] The following clause omitted from the Belgian treaty.

[3] The same article included in the German treaty of August 17, 1928.

[4] The Belgian treaty reads: "principle of reciprocity and equality of treatment;" the German: "principle of perfect parity and equality of treatment."

Annex I[1]

Dr. C. T. Wang to Mr. Vare, the Italian Minister

Nanking, November 27, 1928.

In the name of the National Government of the Republic of China, I have the honor to state that Art. II of the treaty signed this day between China and Italy shall be understood to begin to be operative on January 1, 1930. Before such date the Chinese Government will make detailed arrangements with the Italian Government for the assumption by China of jurisdiction over Italian subjects. Failing such arrangements on the said date, Italian subjects shall be amenable to Chinese laws and jurisdiction[2] from a date to be fixed by China, after having come to an agreement for the abolition of extraterritoriality with all the powers signatory of the Washington treaties, it being understood that such a date shall be applicable to all such powers.

By "powers signatory of the Washington treaties" shall be meant those powers, other than China, which directly participated in the discussion of Pacific and Far Eastern questions in the Conference on the Limitation of Armament held in Washington in 1921–1922.[3]

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Chengting T. Wang.

Minister Vare to Dr. C. T. Wang

Nanking, November 27, 1928 (VII).

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date, which reads as follows:

[Dr. Wang's letter is repeated verbatim.]

I have the honor to state that the Italian Government is in full agreement with the above statements.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Daniele Vare.

[1] The exchange of notes is common to the treaties with Belgium, Denmark, Italy, Portugal and Spain.

[2] The Sino-Belgian exchange of notes at this point reads: "as soon as the majority of the powers now possessing extraterritorial privileges in China shall have agreed to relinquish them."

[3] This paragraph omitted from the Sino-Belgian exchange of notes.

Annex II

Declaration [1]

I have the honor to declare that on or before January 1, 1930, the Civil Code and the Commercial Code, in addition to other codes and laws now in force, will be duly promulgated by the National Government of the Republic of China.

(Signed) Chengting T. Wang.

Annex III

Declaration

In the name of the National Government of the Republic of China, I have the honor to declare that, when Italian subjects cease to enjoy the privileges of consular jurisdiction and other special privileges,[2] and when the relations between the two countries are on a footing of perfect equality, the Chinese Government, in view of the fact that Chinese citizens,[3] subject to the limitations prescribed in Italian laws and regulations, enjoy the right to live and trade and to acquire property in any part of the Italian territory, will grant the same rights to Italian subjects in China, subject to the limitations to be prescribed in its laws and regulations.

(Signed) Chengting T. Wang.

Annex IV

Joint Declaration [4]

It is understood that Italian subjects in Chinese territories and Chinese citizens in Italian territories shall hereafter pay such taxes or imposts as may be prescribed in the laws and regulations duly promulgated by the Chinese and the Italian Governments, respectively, provided that such taxes or imposts [5] are not other or higher than those paid by the nationals of any other country.

(Signed) Chengting T. Wang.
(Signed) Daniele Vare.

[1] The declaration is common to the treaties with Belgium, Denmark, Italy, Portugal and Spain.

[2] The Belgian treaty omits "and other special privileges."

[3] The Belgian treaty omits this clause.

[4] The joint declaration is common to the treaties with Denmark, Italy, Portugal and Spain. The declaration annexed to the Belgian treaty is made on behalf of Belgium only.

[5] The Belgian declaration omits "or imposts."

BELGIUM — SPECIAL STIPULATION

Joint Declaration[1]

The Chinese and Belgian Governments declare that it did not appear necessary to insert in the Sino-Belgian treaty signed this day a clause guaranteeing to Chinese citizens in Belgium and Luxemburg and to the Belgian and Luxemburg subjects in China the application of their respective national laws relating to their personal status, inasmuch as the high contracting parties recognize in a general way this principle which is based on private international law, except in the case where such laws will be contrary to the public order of the country to apply them.

(Signed) CHENGTING T. WANG.
(Signed) BARON J. GUILLAUME.

3. Chinese Note concerning Abolition of Extraterritoriality, April 27, 1929[2]

[Identic note addressed to the British, American and French ministers in China, April 27, 1929; with slight alterations to the Brazilian, Netherlands and Norwegian legations; and in the following form delivered in Washington:]

Chinese Legation,
Washington, May 2, 1929.

SIR:

I have the honor to inform you that I am instructed by my Government to transmit to you the following note:

It may be recalled that the Chinese Government, through its representatives, had had occasion to express at the Paris Peace Conference its strong desire for the removal of limitations on China's jurisdictional sovereignty imposed upon her by the old treaties concluded between China and the foreign powers and that the Chinese delegation emphatically reiterated the same desire at the Washington conference, which placed on record its sympathetic disposition toward furthering the aspiration of China for the removal of restrictions on her political, jurisdictional and administrative freedom of action.

With the unification of China and the establishment upon a firm foundation of the national Government, a new era has been happily inaugurated in the relations between our two countries through the conclusion of the recent tariff treaty, and it is to be confidently hoped

[1] Annex III to the treaty of November 22, 1928, The *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 12.

[2] *New York Times*, May 6, 1929; the body of the note is identic with the text in the Department of State press release, September 4, 1929. The Nanking form of the text is in *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 64. Under date of May 2, 1929, the Chinese minister at Washington transmitted to the Secretary of State a copy of the note of April 27. See Department of State press release, September 4, 1929.

that the material well-being of our two countries will henceforth be greatly enhanced.

But it is the belief and the conviction of the Chinese Government that the promotion of such material well-being will be accelerated by a readjustment of the relations between our two countries on a basis of friendly equality in matters of jurisdiction, and if the American Government could see its way to meet the wishes of the Chinese Government and people in this regard, it is certain that another obstacle to the full and frank cooperation, in trade or otherwise, between the Chinese people and foreign nationals in this country would be happily removed and that the desire of the Chinese Government for promoting to the fullest extent the material interests of all who choose to associate themselves with our own people would find its early realization.

It goes without saying that extraterritoriality in China is a legacy of the old régime, which has not only ceased to be adaptable to the present-day conditions, but has become so detrimental to the smooth working of the judicial and administrative machinery of China that her progress as a member of the family of nations has been unnecessarily retarded. The inherent defects and inconveniences of the system of consular jurisdiction have been most clearly pointed out by the Chinese Government on various occasions, and also by the jurists and publicists of other countries in their official utterances, as well as in their academic discussions. It is a matter for sincere regret that, while many Governments which are playing an important rôle in international affairs are eager and persistent in their endeavors to promote genuine friendship and harmony among nations, such anachronistic practices as only tend to mar the friendly relations between the Chinese people and foreign nations should be allowed to exist at a time when justice and equity are supposed to govern the relations of nations.

With the close contact between China and the foreign powers, the assimilation of Western legal conceptions by Chinese jurists and the incorporation of Western legal principles in Chinese jurisprudence have proceeded very rapidly. In addition to the numerous codes and laws now in force, the civil code and the commercial code have reached the final stage of preparation and will be ready for promulgation before January 1, 1930. Courts and prisons, along modern lines, have been established, and are being established, throughout the whole country.

Inasmuch as doubt has been entertained with regard to the advisability of relinquishing extraterritorial privileges at this juncture by the interested powers, it may be pointed out that certain countries, having ceased to enjoy extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese laws and have had no cause for complaint that their interests have been in any way prejudiced. The American Government may, therefore, rest assured that the legitimate rights and interests of American citizens in

China will not be unfavorably affected in the least by the relinquishment of the extraterritorial privileges which they now possess.

As the American Government has always maintained a friendly attitude toward China, and has always shown its readiness in the adoption of measures for the removal of limitations on China's sovereignty, the Chinese Government is happy to express to the American Government the desire of China to have the restrictions on her jurisdictional sovereignty removed at the earliest possible date, and confidently hopes that the American Government will take this desire of China into immediate and sympathetic consideration and favor it with an early reply so that steps may be taken to enable China, now unified and with a strong central Government, to rightfully assume jurisdiction over all nationals within her domain.

Accept, sir, the renewed assurances of my highest consideration.

CHAO-CHU WU.

Hon. HENRY L. STIMSON,
Secretary of State.

4. American Government's Reply to the Chinese Government's Note on Extraterritoriality, August 10, 1929 [1]

I have the honor to acknowledge the receipt of the Chinese Government's note of April 27 in which there are expressed the desire that the United States should relinquish the further exercise of extraterritorial jurisdiction over its citizens in China and the hope that the American Government will take this desire into immediate and sympathetic consideration.

I am directed by my Government to state that it is prepared to give sympathetic consideration to the desires expressed by the Chinese Government, giving at the same time, as it must, due consideration to the responsibilities which rest upon the Government of the United States in connection with the problem of jurisdiction over the persons and property of American citizens in China. My Government has in fact for some time past given constant and sympathetic consideration to the national aspirations of the people of China and it has repeatedly given concrete evidence of its desire to promote the realization of those aspirations in so far as action of the United States may contribute to that result. As long ago as the year 1903, in Art. 15 of the treaty concluded in that year between the United States and China, the American Government agreed that it would be prepared to relinquish the jurisdiction which it exercised over its nationals in China "when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant it in so doing." As

[1] Department of State press release, September 4, 1929. The replies of other Governments made at about the same time are understood to be of the same tenor.

recently as last year, the American Government gave very definite evidence of its desire to promote the realization of China's aspirations by concluding with the Government of China on July 25, 1928, a treaty by which the two countries agreed to the cancellation of provisions in earlier treaties whereby China's authority in reference to customs duties on goods imported into China by American nationals had been restricted.

The exercise by the United States of jurisdiction over its citizens in China had its genesis in an early agreement that, because of differences between the customs of the two countries and peoples, and differences between their judicial systems, it would be wise to place upon the American Government the duty of extending to American nationals in China the restraints and the benefits of the system of jurisprudence to which they and their fellow nationals were accustomed in the United States.

My Government deems it proper at this point to remind the Government of China that this system of American jurisdiction, as administered by the extraterritorial courts, has never been extended by the United States beyond the purposes to which it was by the treaties originally limited. Those purposes were the lawful control and protection of the persons and property of American citizens who have established themselves in China in good faith, in accordance with the terms of the treaties and with the knowledge and consent of China, in the normal development of the commercial and cultural relations between the two countries. The United States has never sought to extend its sovereignty over any portion of the territory of China.

Under the provisions of the treaty of 1844 and other agreements concluded thereafter which establish that system, American citizens have lived and have carried on their legitimate enterprises in China with benefit both to the Chinese and to themselves. They have engaged extensively in cultural and in commercial enterprises involving large sums of money and extensive properties, and, as your Government has so graciously indicated in the note under acknowledgment, there has grown up and existed between the peoples and the governments of the two countries a friendship that has endured. The American Government believes that this condition of affairs has been due in large part to the manner in which the relations between the two peoples have been regulated under the provisions of these agreements the existence of which has assured to the lives and property of American citizens in China the security so necessary to their growth and development.

For the safety of life and property, the development and continuance of legitimate and beneficial business depend in the last resort, in China as elsewhere, upon the certainty of protection from injury or confiscation, by a system of known law consistently interpreted and faithfully enforced by an independent judiciary. Where such protection fails, the life and liberty of the individual become subject to the constant

threat of unlawful attack while his property suffers the ever-present danger of confiscation in whole or in part through arbitrary administrative action. To exchange an assured and tried system of administration of justice, under which it is acknowledged that life and property have been protected and commerce has grown and prospered, for uncertainties in the absence of an adequate body of law and of an experienced and independent judiciary would be fraught with danger in both of the foregoing respects.

My Government has instructed me to say that the statement of the minister of foreign affairs of China, telegraphed to the press of the United States on July 26, to the effect that "all foreign interests in China purely for legitimate purposes will be duly respected," has been noted by it with pleasure as indicating that the Government of China has not failed to appreciate the value to its foreign relations of the factors above mentioned. My Government bids me add that it is therefore persuaded that the Government of China will concur in its belief, based as it is upon the facts set forth in succeeding paragraphs, that the sudden abolition of the system of protection by its extraterritorial courts in the face of conditions prevailing in China today would in effect expose the property of American citizens to danger of unlawful seizure and place in jeopardy the liberty of the persons of American citizens.

The Chinese Government has on several occasions during recent years expressed the desire that the powers relinquish the exercise of extraterritorial jurisdiction over their citizens. In the note under acknowledgment reference is made to the position taken at the Washington conference. It will be recalled that in pursuance of the resolution adopted at that conference, there was created a commission to inquire into the present practice of extraterritorial jurisdiction in China and into the laws and the judicial system and the methods of judicial administration of China, and that, under date of September 16, 1926, that commission made its report. This report contained an account of the conditions then prevailing in the judicial system of China as well as a number of recommendations carefully suggested as indicating the changes and improvements which would be necessary before there would be adequately developed a system of known law and an independent judiciary capable of justly controlling and protecting the lives and property of the citizens of foreign countries doing business in China. Your Government will recall that the commission on extraterritoriality which made these recommendations was composed of representatives from 13 countries including both China and the United States, and that its recommendations, thoughtfully and reasonably conceived, were unanimously adopted and were signed by all of the commissioners.

Because of its friendship for the Chinese people and its desire, to which allusion has been already made, to relinquish as soon as possible, extraterritorial jurisdiction over its own citizens in China, my Gov-

ernment has followed with attentive consideration this entire subject including particularly the progress which has been made in carrying out its recommendations since the rendition of this report. It fully appreciates the efforts which are being made in China to assimilate those western juridical principles to which your Government has referred in its note. But it would be lacking in sincerity and candor, as well as disregardful of its obligations towards its own nationals, if it did not frankly point out that the recommendations aforesaid have not been substantially carried out, and that there does not exist in China today a system of independent Chinese courts free from extraneous influence which is capable of adequately doing justice between Chinese and foreign litigants. My Government believes that not until these recommendations are fulfilled in far greater measure than is the case today will it be possible for American citizens safely to live and do business in China and for their property adequately to be protected without the intervention of the consular courts.

In conclusion, my Government has directed me to state that it observes with attentive and sympathetic interest the changes which are taking place in China. Animated as it is by the most friendly motives, and wishing as far as lies within its power to be helpful, the American Government would be ready, if the suggestion should meet with the approval of the Chinese Government, to participate in negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.

VI. JAPANESE POLICY TOWARD CHINA

1. Statement of Premier Tanaka at the Oriental Conference, July 7, 1927

The maintenance of peace in the Far East and the realization of the common prosperity of Japan and China form the basic principle of Japanese policy toward China. The methods of carrying out the principle, however, may vary in its application to China proper and to Manchuria and Mongolia, in view of our special position in the Far East. The general outline of our policy toward China, which is based on this fundamental principle, may be summed up as follows:

1. Although the stabilization of the political situation and the restoration of peace and order in China constitute the crying need of the times, yet the best way to realize them is to let the Chinese people themselves undertake it. Therefore, in the present internal political conflict in that country, we should not take the side of any party or clique and should respect the popular will and strictly avoid such steps as might interfere with the contending forces.

2. We are heartily in sympathy with the legitimate national aspirations that emanate from the moderate elements in China, and we should always be ready to cooperate with them for their rational and gradual attainment through cooperation with the powers as far as possible.

At the same time, the peaceful economic development of China is a matter ardently desired equally by the Chinese and the foreign peoples and its accomplishment demands the friendly cooperation of the powers as well as the endeavors of the Chinese people themselves.

3. The aforementioned objects can be accomplished only when a stable central government is established, but, when we view the present political situation in China, we find that the establishment of such a government is no easy matter. In the existing circumstances, therefore, we have no alternative but to keep ourselves properly in touch with moderate political factors in various places for the time being and to await the development of events for the gradual unification of the country.

4. If, with the transition of the political situation, the governments of the North and South are combined or a federation of local political groups is formed, it is a matter of course that the attitude of the Japanese Government toward such different political factors will be entirely unchanged. If, under such conditions, a tendency arises toward the establishment of a unified government to deal with the foreign

relations of China, we shall welcome it, as also will the powers, and stand ready to assist in the growth of such a government.

5. It is irrefutable that the radical and destructive elements, taking advantage of the political unrest in China, may become rampant and disturb the public peace, thereby causing unfortunate international embroglios. The Japanese Government expects that the suppression of obnoxious elements and the maintenance of peace and order will be effected through the control of the Chinese authorities and the efforts of the Chinese people themselves; but, in the case of infringement of our legitimate rights and interests and the lives and property of our nationals, there will be no alternative for us but resolutely to take self-defensive measures and protect them, if necessary. Particularly, it is necessary to dispel the misapprehensions and misunderstandings of those who, on the strength of unfounded rumors concerning Sino-Japanese relations, blindly start a movement to boycott Japanese goods, and to take appropriate measures for safeguarding our rights.

6. Since Manchuria and Mongolia, particularly the three eastern provinces, have an important bearing upon the national defense and existence of this country, we must devote especial attention to those regions. We feel, moreover, particular responsibility as a neighbor for making them suitable for the residence of both Japanese and foreigners by the preservation of peace and their economic development.

The stimulus of the economic activities of Japanese and foreigners alike in both the southern and northern parts of Manchuria and Mongolia, based upon the principles of the Open Door and equal opportunity, we hold to be instrumental in accelerating the peaceful development of those regions and we should act in accordance with this principle in safeguarding our already acquired rights and interests and in solving pending questions.

7. I believe that it will be best to leave stabilization of the political situation in the three eastern provinces in their own hands. Any plan which will respect our special position in Manchuria and Mongolia and devise measures for stabilizing the political situation there will receive the due assistance of the Japanese Government.

8. If the disturbances spread to Manchuria and Mongolia and, as a result, peace and order are disrupted, thereby menacing our special position and rights and interests in those regions, we must be determined to defend them, no matter whence the menace comes, and take proper steps without loss of time in order to preserve the regions as lands for peaceful habitation and development equally to Japanese and foreigners.

2. Premier Tanaka's Statement of Policy to the Imperial Diet, January 22, 1929 [1]

[Translation issued by the Japanese Government]

Turning now to the situation in China, it is highly gratifying for this empire, which always has at heart the welfare of the Chinese people, to note that the strife and warfare which have been prevalent in China for more than 15 long years are gradually subsiding and everything now appears to point to peace. This Government are sincerely desirous that the Chinese nation, availing itself of this happy tendency in its affairs, may speedily be enabled to accomplish its great enterprise of peaceful unification. Deeply sympathizing as they do with the Chinese people, this Government are quite willing, in cooperation with the other nations having close relations with China, to lend them assistance as far as possible in their task of construction. It need hardly be pointed out that, the path of China, both at home and abroad, is being beset with difficulties, and the Chinese Government, in order to attain their aims, should more than ever be guided by counsels of self-restraint and moderation.

In speaking of our relationship with China, I feel bound to say a few words about our position in Manchuria as distinguished from the rest of China. In view of the political and strategic importance which it bears to Japan on account of its geographic contiguity with our territory, and considering the historic significance which it possesses in that region restored to China by Japan at the risk of her national existence from the aggressive grip of tsarist Russia, it is quite natural that the sentiment of the Japanese people toward Manchuria should be peculiarly keen and entirely different from that toward any other part of China. Furthermore, more than 1,000,000 Japanese subjects reside in that region to-day and Japan has many important rights and interests there. The interest and concern with which Japanese people have come to regard the affairs of Manchuria should therefore not cause the least wonder. It goes without saying that the Japanese Government will respect the sovereignty of China over Manchuria, do all in their power for the preservation of the principles of the Open Door and equal opportunity, and desire that the region be made a safe abode for both natives and foreigners. They are at the same time fully determined to take appropriate steps when a state of affairs arises in Manchuria which would disturb the local tranquillity and thus put their vital interests in jeopardy. This Government have always followed this policy in all their dealings with Manchuria.

In a word, what this Government desire in regard to China is that the two nations, mutually understanding the position of the other,

[1] Text may be found in *Japan Weekly Chronicle*, January 31, 1929, p. 118.

should be animated by the spirit of conciliation in their exchange of views and in their efforts for the settlement of various questions pending between them, so that a relationship may be restored between them that will really not only contribute to their mutual well-being, but will be conducive to the tranquillity of the Far East and eventually to the progress of world civilization.

3. Manifesto of the Japanese Cabinet, July 9, 1929[1]

[Excerpt]

Improvement of the relations between Japan and China is one of the most urgent duties confronting the new Government. The policy of friendly cooperation which Japan has for China in respect to the revision or abolition of the so-called unequal treaties was fully demonstrated on the occasions of the customs conference and extraterritoriality committee meeting.

In view of the developments of the situation in China the Government recognizes the necessity for adherence to the same policy. For the solution of the problems pending between the two nations it is imperative that the nations concerned should understand each other's position and give this due consideration and find a point of mutual harmony based on fairness and equality. It does not promote the general situation to confine one's attention to partial issues. It does not enhance the prestige of a nation to move military force without sufficient reason.

What the Government seeks consists in co-existence and co-prosperity. As to the economic relations between Japan and China, they should have free and unhindered improvement. Our Government not only rejects a policy of aggression in any part of China but is prepared to render friendly aid to China for the attainment of the national aspirations of China, but it, of course, is the responsibility of the Government to protect and preserve the legitimate rights and interests that are indispensable to Japan's existence and prosperity. The Government believes that the Chinese people understand this point fully.

The Government places importance on the cultivation of friendship with the powers and the promotion of mutual commerce and enterprises. It is not desirable that the attentions of the Government should be concentrated on domestic politics, disregarding economic relations abroad. Improvement of the trade balance should depend on peaceful progress in Japan's trade and enterprises abroad.

In view of the position Japan occupies in the family of nations it shall be the high duty of our country to participate in the activities of the League of Nations and contribute to the betterment of peace, welfare and happiness of mankind in general. The Government at-

[1] Text from *Japan Advertiser*, July 10, 1929.

taches importance to the League and pledges itself to make efforts for the attainment of the aim for which the League exists.

Regarding the armament limitation problem, the powers ought, with firm determination, to expedite the conclusion of an international agreement. Its aim and purpose should be not only the limitation of armaments but also the practical reduction of them. The sincere attitude of our empire toward this question has often been fully demonstrated, and although the attempts at the conclusion of an agreement on this question have often met with difficulties, the public demand for disarmament is now more sincere than ever and the time is steadily ripening for putting the principle of disarmament into practice.

If the powers will all consider their respective requirements sincerely and face the problems in a spirit of mutual concession, the Government does not deem it a difficult task to accomplish this, the world's great undertaking.

VII. MANCHURIA

1. Japanese Interests and Policy

a. Interests

Convention between Russia and China for the Lease of the Liaotung Peninsula

Signed at Peking, March 27, 1898[1]

[Excerpt]

Article I. For the purpose of insuring that the Russian naval forces shall possess an entirely secure base on the littoral of northern China, His Majesty the Emperor of China agrees to place at the disposal of the Russian Government, on lease, the Ports Arthur (Liou-choun-kow) and Ta-lien-wan [Dairen], together with the water areas contiguous to these ports. This act of lease, however, in no way violates the sovereign rights of His Majesty the Emperor of China to the above-mentioned territory.

Art. II. The frontier of the territory leased on the above-specified basis, will extend northward from the Bay of Ta-lien-wan [Dairen] for such distance as is necessary to secure the proper defense of this area on the land side. The precise line of demarkation and other details respecting the stipulations of the present convention will be determined by a separate protocol which shall be concluded at St. Petersburg with the dignitary Siou-tzin-ch'eng immediately after the signature of the present convention. Upon the determination of this line of demarkation, the Russian Government will enter into complete and exclusive enjoyment of the whole area of the leased territory together with the water areas contiguous to it.

Art. III. The term of the lease shall be 25 years from the date of the signature of the present agreement and may be prolonged subsequently by mutual consent of both Governments.

Art. IV. During the above-specified period, on the territory leased by the Russian Government and its adjacent water area, the entire military command of the land and naval forces and equally the supreme civil administration will be entirely given over to the Russian authorities and will be concentrated in the hands of one person who however shall not have the title of governor or governor-general. No Chinese military land forces whatsoever will be allowed on the territory specified. Chinese inhabitants retain the right, as they may

[1] MacMurray, John V. A., *Treaties and Agreements with and concerning China*, Vol. I, p. 119.

desire, either to remove beyond the limits of the territory leased by Russia or to remain within such limits without restriction on the part of the Russian authorities. In the event of a Chinese subject committing any crime within the limits of the leased territory, the offender will be handed over to the nearest Chinese authorities for trial and punishment in accordance with Chinese laws, as laid down in Art. VIII of the treaty of Peking of 1860.

Art. V. A neutral zone shall be established north of the above-specified frontier of the leased territory. The frontiers of this zone will be fixed by the dignitary Siou-tzin-ch'eng and the ministry of foreign affairs in St. Petersburg. Within this specified neutral zone the civil administration will be entirely in the hands of the Chinese authorities; Chinese troops will be admitted within this zone only with the consent of the Russian authorities.

Art. VI. Both the Governments agree that Port Arthur, as an exclusively military (naval) port, shall be used solely by Russian and Chinese vessels and shall be considered as a closed port to warships and merchant vessels of other states. As regards Ta-lien-wan [Dairen], this port, with the exception of one of the inner bays which, like Port Arthur, shall be set apart exclusively for the use of the Russian and Chinese fleets, shall be considered open to foreign commerce and free entry to it will be granted to the merchant vessels of all nations.

Art. VII. The Russian Government takes upon itself at its own expense and with its own resources to erect all buildings necessary for its fleet and land forces on the area leased to it and especially in the Ports Arthur and Ta-lien-wan [Dairen], to erect fortifications, maintain garrisons in them and generally to take all necessary steps for the proper defense of the specified locality from hostile attack. Similarly, the Russian Government binds itself at its own expense to erect and maintain lighthouses and other precautionary signs requisite for the security of navigation.

Art. VIII.[1] The Chinese Government agrees that the concessions granted by it in 1896 to the Chinese Eastern Railway Company, from the date of the signature of the present agreement shall be extended to the connecting branch which is to be built from one of the stations of the main line to Ta-lien-wan [Dairen], and also, if deemed necessary, from the same main line to another more convenient point on the littoral of the Liaotung Peninsula between the town of In-tzü and the estuary of the River Yalu. All the stipulations of the contract concluded by the Chinese Government with the Russo-Chinese Bank on August 27 (September 8), 1896, shall apply scrupulously to these supplementary branches. The direction and points through which the above-mentioned lines shall pass will be determined upon by the dignitary Siou-tzin-ch'eng and the administration of the Chinese Eastern Railway. Consent to the construction of the railway on the basis indi-

[1] The railroads referred to are now included — south of Chang-chung — in the South Manchuria Railway system.

cated shall never under any form serve as a pretext for the seizure of Chinese territory or for an encroachment on the sovereign rights of China.

Treaty of Peace between Japan and Russia

Signed at Portsmouth, September 5, 1905;[1] effective November 25, 1905

[Excerpt]

ARTICLE V. The imperial Russian Government transfer and assign to the imperial Government of Japan, with the consent of the Government of China, the lease of Port Arthur, Talien [Dairen] and adjacent territory and territorial waters and all rights, privileges and concessions connected with or forming part of such lease and they also transfer and assign to the imperial Government of Japan all public works and properties in the territory affected by the above-mentioned lease.

The two high contracting parties mutually engage to obtain the consent of the Chinese Government mentioned in the foregoing stipulation.

The imperial Government of Japan on their part undertake that the proprietary rights of Russian subjects in the territory above referred to shall be perfectly respected.

ART. VI. The imperial Russian Government engage to transfer and assign to the imperial Government of Japan, without compensation and with the consent of the Chinese Government, the railway between Chang-chun (Kuan-cheng-tsu) and Port Arthur and all its branches, together with all rights, privileges and properties appertaining thereto in that region, as well as all coal mines in the said region belonging to or worked for the benefit of the railway.

The two high contracting parties mutually engage to obtain the consent of the Government of China mentioned in the foregoing stipulation.

ART. VII. Japan and Russia engage to exploit their respective railways in Manchuria exclusively for commercial and industrial purposes and in no wise for strategic purposes.

It is understood that that restriction does not apply to the railway in the territory affected by the lease of the Liaotung Peninsula.

Treaty between China and Japan relating to Manchuria

Signed at Peking, December 22, 1905;[2] effective December 22, 1905

[Excerpt]

ARTICLE I. The imperial Chinese Government consent to all the transfers and assignments made by Russia to Japan by Arts. V and VI of the treaty of peace above mentioned.

[1] MacMurray, John V. A., *Treaties and Agreements with and concerning China*, Vol. I, p. 523.

[2] *Ibid.*, p. 550.

ART. II. The imperial Japanese Government engage that in regard to the leased territory as well as in the matter of railway construction and exploitation, they will, so far as circumstances permit, conform to the original agreements concluded between China and Russia. In case any question arises in the future on these subjects, the Japanese Government will decide it in consultation with the Chinese Government.

Treaty between China and Japan respecting South Manchuria and Eastern Inner Mongolia

Signed at Peking, May 25, 1915;[1] in force on date of signature

[Excerpt]

ARTICLE 1. The two high contracting parties agree that the term of lease of Port Arthur and Dalny and the terms of the South Manchuria Railway and the Antung-Mukden Railway shall be extended to 99 years.

Exchange of Notes respecting the Terms of Lease of Port Arthur and Dalny and the Terms of South Manchurian and Antung-Mukden Railways

Peking,
the 25th day of the 5th month of the 4th year of the Republic of China.

M. LE MINISTRE,

I have the honor to state that, respecting the provisions contained in Art. I of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchuria Railway to China shall fall due in the 91st year of the Republic or 2002. Art. 12 in the original South Manchurian Railway agreement providing that it may be redeemed by China after 36 years from the date on which the traffic is opened is hereby canceled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007.

I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,
HIOKI EKI,
Japanese Minister.

[1] MacMurray, *Treaties and Agreements*, etc., Vol. II, p. 1220, 1221.

Peking,
the 25th day of the 5th month
of the 4th year of Taisho.

EXCELLENCY,

I have the honor to acknowledge the receipt of Your Excellency's note of this day's date, in which you stated "that respecting the provisions contained in Art. 1 of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchurian Railway to China shall fall due in the 91st year of the Republic or 2002. Art. 12 in the original South Manchurian Railway agreement providing that it may be redeemed by China after 36 years from the day on which the traffic is opened, is hereby canceled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007."

In reply I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,
LU TSENG-TSIANG,
Minister of Foreign Affairs.

b. POLICY

Statement by Baron Tanaka to the Ambassadors of America, Great Britain, France and Italy, May 17, 1928 [1]

Should the life and property of foreigners residing in Peking and Tientsin be endangered, the imperial Government will not only undertake to protect Japanese residents, but will endeavor to assist in the protection of lives and properties of foreigners. Should Manchuria and Mongolia come to be involved in disturbance, the imperial Government will prevent, as much as possible, defeated troops or those in pursuit of them, questioning not whether they are southern or northern troops, from entering the territory, as such is necessary for the protection of the special position of the imperial Government in Manchuria and Mongolia.

Memorandum presented by the Japanese Minister to Marshal Chang Tso-lin, May 18, 1928 [2]

The life of the population in China is characterized by extreme unrest and distress owing to the constant disturbances there, which

[1] *Week in China*, May 19, 1928, Vol. XI, p. 11. A notice of a similar nature was also sent to Marshal Chang Tso-lin, General Chiang Kai-shek and Marshal Feng Yu-hsiang.

[2] Text furnished by Japanese embassy, Washington; also *Week in China*, May 19, 1928, Vol. XI, p. 10–11. Copies of this memorandum were also presented to General Chiang Kai-shek, Marshal Feng Yu-hsiang, and General Yen Hsi-shan either directly or through their respective representatives.

have now extended over many years; and foreign residents enjoy there no assurance of safety in the pursuit of their occupations. It is, accordingly, the earnest desire of the Chinese and foreigners alike that the disturbances should terminate, as soon as possible, in such a manner as may lead to the emergence of a united and peaceful China. Especially is this keenly hoped for by Japan, whose interests are especially and deeply involved, on account of her being China's nearest neighbor.

The disturbances, however, now threaten to spread to the Peking and Tientsin districts, and it is feared that Manchuria may also be affected.

The Japanese Government attach the utmost importance to the maintenance of peace and order in Manchuria, and are prepared to do all they can in order to prevent the occurrence of any such state of affairs as may disturb the peace and order or constitute a probable cause of such disturbance.

In these circumstances, should the disturbances develop further in the direction of Peking and Tientsin and the situation become so menacing as to threaten the peace and order of Manchuria, the Japanese Government, on their part, may possibly be constrained to take appropriate and effective steps for the maintenance of peace and order in Manchuria.

It must be noted, however, that the policy of the Japanese Government, which consists in maintaining an attitude of strict neutrality toward the contending forces, remains unchanged in every respect, and that, should the course of events be such as to render the abovementioned measure imperative, the Japanese Government will, in respect of the time and method of its adoption, exercise due care to provide against any unfair consequences arising to either of the two opposed parties.

Declaration of the Peking Government, May 25, 1928

(Official Translation) [1]

On May 18, 1928, His Excellency the Japanese Minister, Mr. Yoshizawa, expressed certain views to Marshal Chang Tso-lin which, in brief, were as follows:

[The Japanese memorandum is here summarized]

Japan's desire to see an early termination to the civil strife in this country is, in the opinion of the Chinese Government, exactly in harmony with Marshal Chang's circular telegram of May 9, 1928, advocating the cessation of hostilities, and inasmuch as such desire is motivated by friendly sentiments it is deeply appreciated by the Chinese

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 52; *Week in China*, May 26, 1928, Vol. XI, p. 18–20.

Government. On the other hand, the Chinese Government can never agree to the proposition that should the disturbances develop further in the direction of Peking and Tientsin, so as to affect Manchuria, the Japanese Government may be constrained to adopt appropriate and effective measures to cope with the situation.

The Chinese Government hereby emphatically declares that inasmuch as Manchuria and the Peking and Tientsin area are Chinese territory, and any violation of the integrity thereof would involve China's sovereignty, it can not maintain an attitude of indifference. Whether the localities in question are peaceful or otherwise, the Chinese Government will be responsible for the safety of foreign nationals resident therein. It is therefore earnestly hoped that the Japanese Government will, in the light of the regrettable incidents in Tsinan, be dissuaded from further acts in violation of international law and usage so that the traditional friendly relations between the two countries may be preserved. A declaration to this effect was communicated to His Excellency the Japanese minister in the Waichiaopu's note of May 25, 1928.

Moreover, the action contemplated by the Japanese Government is obviously at variance with the twofold principles enunciated by the nine-power treaty concerning policies in China signed at Washington on February 6, 1922, namely, that the powers should respect China's independence and sovereignty as well as its territorial and administrative integrity and "refrain from taking advantage of conditions in China in order to seek special rights or privileges," and as such it can only be deplored by the Chinese people.

Peking, May 25, 1928.

2. Soviet Relations and Activities

a. General Relations

Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics[1]

Signed at Peking, May 31, 1924, by V. K. Wellington Koo and L. M. Karakhan; in effect from May 31, 1924

Article I. Immediately upon the signing of the present agreement, the normal diplomatic and consular relations between the two contracting parties shall be reestablished.

The Government of the Republic of China agrees to take the necessary steps to transfer to the Government of the Union of Soviet Socialist Republics the legation and consular buildings formerly belonging to the tsarist Government.

[1] League of Nations, *Treaty Series*, Vol. XXXVII, p. 176.

ART. II. The Governments of the two contracting parties agree to hold, within one month after the signing of the present agreement, a conference [1] which shall conclude and carry out detailed arrangements relative to the questions in accordance with the principles as provided in the following articles.

Such detailed arrangements shall be completed as soon as possible and, in any case, not later than six months from the date of the opening of the conference as provided in the preceding paragraph.

ART. III. The Governments of the two contracting parties agree to annul at the conference as provided in the preceding article, all conventions, treaties, agreements, protocols, contracts, etc., concluded between the Government of China and the tsarist Government and to replace them with new treaties, agreements, etc., on the basis of equality, reciprocity and justice, as well as the spirit of the declarations of the Soviet Government of the years of 1919 and 1920.

ART. IV. The Government of the Union of Soviet Socialist Republics, in accordance with its policy and declarations of 1919 and 1920, declares that all treaties, agreements, etc., concluded between the former tsarist Government and any third party or parties affecting the sovereign rights or interests of China are null and void.

The Governments of both contracting parties declare that in future neither Government will conclude any treaties or agreements which prejudice the sovereign rights or interests of either contracting party.

ART. V. The Government of the Union of Soviet Socialist Republics recognizes that Outer Mongolia is an integral part of the Republic of China and respects China's sovereignty therein.

The Government of the Union of Soviet Socialist Republics declares that, as soon as the questions for the withdrawal of all of the troops of the Union of Soviet Socialist Republics from Outer Mongolia — namely, as to the time limit of the withdrawal of such troops and the measures to be adopted in the interests of the safety of the frontiers — are agreed upon at the conference as provided in Art. II of the present agreement, it will effect the complete withdrawal of all the troops of the Union of Soviet Socialist Republics from Outer Mongolia.

ART. VI. The Governments of the two contracting parties mutually pledge themselves not to permit, within their respective territories, the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.

The Governments of the two contracting parties further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party.

ART. VII. The Governments of the two contracting parties agree to redemarkate their national boundaries at the conference as provided

[1] The conference actually took place in August, 1925, without definite results.

in Art. II of the present agreement, and, pending such redemarkation, to maintain the present boundaries.

ART. VIII. The Governments of the two contracting parties agree to regulate at the aforementioned conference the questions relating to the navigation of rivers, lakes and other bodies of water which are common to their respective frontiers on the basis of equality and reciprocity.

ART. IX. [Relates wholly to the Chinese Eastern Railway and is printed *infra*, p. 202.]

ART. X. The Government of the Union of Soviet Socialist Republics agrees to renounce the special rights and privileges relating to all concessions in any part of China acquired by the tsarist Government under various conventions, treaties, agreements, etc.

ART. XI. The Government of the Union of Soviet Socialist Republics agrees to renounce the Russian portion of the Boxer indemnity.

ART. XII. The Government of the Union of Soviet Socialist Republics agrees to relinquish the rights of extraterritoriality and consular jurisdiction.

ART. XIII. The Governments of the two contracting parties agree to draw up simultaneously with the conclusion of a commercial treaty at the conference as provided in Art. II of the present agreement, a customs tariff for the two contracting parties in accordance with the principles of equality and reciprocity.

ART. XIV. The Governments of the two contracting parties agree to discuss at the aforementioned conference the questions relating to the claims for the compensation of losses.

ART. XV. The present agreement shall come into effect from the date of signature.

[Here follow formal clauses and signatures.]

Declaration I

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics declare that immediately after the signing of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, they will reciprocally hand over to each other all the real estate and movable property owned by China and the former tsarist Government and found in their respective territories. For this purpose each Government will furnish the other with a list of the property to be so transferred.

[Here follow the formal clauses and signatures.]

Declaration II

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics hereby declare that it is un-

derstood that, with regard to the buildings and landed property of the Russian Orthodox Mission, belonging as it does to the Government of the Union of Soviet Socialist Republics, the question of the transfer or other suitable disposal of the same will be jointly determined at the conference provided in Art. II of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, in accordance with the internal laws and regulations existing in China regarding property-holding in the inland. As regards the buildings and property of the Russian Orthodox Mission belonging as it does to the Government of the Union of Soviet Socialist Republics at Peking and Patachu, the Chinese Government will take steps to immediately transfer same as soon as the Government of the Union of Soviet Socialist Republics will designate a Chinese person or organization, in accordance with the laws and regulations existing in China regarding property-holding in the inland.

Meanwhile the Government of the Republic of China will at once take measures with a view to guarding all the said buildings and property and clearing from them all the persons now living there.

It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration III

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics jointly declare that it is understood that with reference to Art. IV of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, the Government of the Republic of China will not and does not recognize as valid any treaty, agreement, etc., concluded between Russia since the tsarist régime and any third party or parties affecting the sovereign rights and interests of the Republic of China. It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration IV

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics jointly declare that it is understood that the Government of the Republic of China will not transfer either in part or in whole to any third power or any foreign organization the special rights and privileges renounced by the Government of the Union of Soviet Socialist Republics in Art. X of the agreement

on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924. It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration V

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics jointly declare that it is understood that with reference to Art. XI of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924:

(1) The Russian share of the Boxer indemnity which the Government of the Union of Soviet Socialist Republics renounces will, after the satisfaction of all prior obligations secured thereon, be entirely appropriated to create a fund for the promotion of education among the Chinese people.

(2) A special commission will be established to administer and allocate the said fund. This commission will consist of three persons, two of whom will be appointed by the Government of the Republic of China and one by the Government of the Union of Soviet Socialist Republics. Decisions of the said commission will be taken by unanimous vote.

(3) The said fund will be deposited as it accrues from time to time in a bank to be designated by the said commission.

It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration VI

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics agree that they will establish equitable provisions at the conference as provided in Art. II of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, for the regulation of the situation created for the citizens of the Government of the Union of Soviet Socialist Republics by the relinquishment of the rights of extraterritoriality and consular jurisdiction under Art. XII of the aforementioned agreement, it being understood, however, that the nationals of the Government of the Union of Soviet Socialist Republics shall be entirely amenable to Chinese jurisdiction.

[Here follow formal clauses and signatures.]

Exchange of Notes

Peking, May 31, 1924.

DEAR MR. KARAKHAN,[1]

On behalf of my Government, I have the honor to declare that, an agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics having been signed between us to-day, the Government of the Republic of China will, in the interests of friendship between the Republic of China and the Union of Soviet Socialist Republics, discontinue the services of all the subjects of the former Russian Empire now employed in the Chinese army and police force, as they constitute by their presence or activities a menace to the safety of the Union of Soviet Socialist Republics. If you will furnish my Government with a list of such persons, the authorities concerned will be instructed to adopt the necessary action.

b. CHINESE EASTERN RAILWAY

Contract for the Construction and Operation of the Chinese Eastern Railway between Russia (Russo-Chinese Bank) and China, September 8, 1896[2]

Between the undersigned, His Excellency Shu King-chen, minister plenipotentiary of His Majesty the Emperor of China at St. Petersburg, acting by virtue of an imperial edict, dated Kuang Hsü, 22nd year, 7th month, 20th day (August 16/28, 1896), of the one part, and the Russo-Chinese Bank, of the other part, it has been agreed as follows:

The Chinese Government will pay the sum of five million Kuping taels (Kuping Tls. 5,000,000) to the Russo-Chinese Bank, and will participate in proportion to this payment in the profits and losses of the bank, on conditions set forth in a special contract.

The Chinese Government having decided upon the construction of a railway line, establishing direct communication between the city of Chita and the Russian South Ussuri Railway, intrusts the construction and operation of this railway to the Russo-Chinese Bank upon the following conditions:

1. The Russo-Chinese Bank will establish for the construction and operation of this railway a company under the name of the Chinese Eastern Railway Company.

The seal which this company will employ will be given to it by the Chinese Government. The statutes of this company will be in conformity with the Russian usages in regard to railways. The shares

[1] The reply quotes and agrees to this letter.

[2] MacMurray, *Treaties and Agreements*, etc., Vol. I, p. 74–77.

of the company can be acquired only by Chinese or Russian subjects. The president of this company will be named by the Chinese Government but paid by the company. He may have his residence in Peking.

It will be the duty of the president to see particularly to the scrupulous fulfilment of the obligations of the bank and of the railway company toward the Chinese Government; he will furthermore be responsible for the relations of the bank and of the railway company with the Chinese Government and the central and local authorities.

The president of the Chinese Eastern Railway Company will likewise be responsible for examining all accounts of the Chinese Government with the Russo-Chinese Bank.

To facilitate local negotiations, the Russo-Chinese Bank will maintain an agent at Peking.

2. The route of the line will be determined by the deputies of the president (named by the Chinese Government) of the company, in mutual agreement with the engineers of the company and the local authorities. In laying out this line, cemeteries and tombs, as also towns and villages, should so far as possible be avoided and passed by.

3. The company must commence the work within a period of 12 months from the day on which this contract shall be sanctioned by imperial decree, and must so carry it on that the whole line will be finished within a period of six years from the day on which the route of the line is definitely established and the lands necessary therefor are placed at the disposal of the company. The gauge of the line should be the same as that of the Russian railways (five Russian feet — about four feet, two and one-half inches, Chinese).

4. The Chinese Government will give orders to the local authorities to assist the company to the extent of their ability in obtaining at current prices the materials necessary for the construction of the railway, as also laborers, means of transport by water and by land, the provisions necessary for the feeding of men and animals, etc.

The Chinese Government should, as needed, take measures to facilitate such transportation.

5. The Chinese Government will take measures to assure the safety of the railway and of the persons in its service against any attack.

The company will have the right to employ at will as many foreigners or natives as it may find necessary for the purpose of administration, etc.

Criminal cases, lawsuits, etc., upon the territory of the railway, must be settled by the local authorities in accordance with the stipulations of the treaties.

6. The lands actually necessary for the construction, operation and protection of the line, as also the lands in the vicinity of the line necessary for procuring sand, stone, lime, etc., will be turned over to the company freely if these lands are the property of the state; if they belong to individuals, they will be turned over to the company either

upon a single payment or upon an annual rental to the proprietors at current prices. The lands belonging to the company will be exempt from all land taxes (*impôt foncier*).

The company will have the absolute and exclusive right of administration of its lands. (*La Société aura le droit absolu et exclusif de l'administration de ses terrains.*)

The company will have the right to construct on these lands buildings of all sorts, and likewise to construct and operate the telegraph necessary for the needs of the line.

The income of the company, all its receipts and the charges for the transportation of passengers and merchandise, telegraphs, etc., will likewise be exempt from any tax or duty. Exception is made, however, as to mines, for which there will be a special arrangement.

7. All goods and materials for the construction, operation and repair of the line, will be exempt from any tax of customs duty and from any internal tax or duty.

8. The company is responsible that the Russian troops and war material, dispatched in transit over the line, will be carried through directly from one Russian station to another without, for any pretext, stopping on the way longer than is strictly necessary.

9. Passengers who are not Chinese subjects, if they wish to leave the territory of the railway, should be supplied with Chinese passports. The company is responsible that passengers, who are not Chinese subjects, should not leave the territory of the railway if they do not have Chinese passports.

10. Passengers' baggage, as well as merchandise dispatched in transit from one Russian station to another, will not be subject to customs duties; they will likewise be exempt from any internal tax or duty. The company is bound to dispatch such merchandise except passengers' baggage in special cars, which, on arrival at the Chinese frontier, will be sealed by the office of the Chinese customs, and can not leave Chinese territory until after the office of the customs shall have satisfied itself that the seals are intact; should it be established that these cars have been opened on the way without authorization, the merchandise would be confiscated.

Merchandise imported from Russia into China by the railway, and likewise merchandise exported from China into Russia by the same route, will respectively pay the import and export duty of the Chinese maritime customs, less one-third.

If merchandise is transported into the interior it will pay in addition the transit duty — equivalent to a half of the import duty collected — which frees it from any further charge.

Merchandise not paying the transit tax will be subject to all the barrier and likin duties imposed in the interior.

The Chinese Government must install customs offices at the two frontier points on the line.

11. The charges for the transportation of passengers and of merchandise, as well as for the loading and unloading of merchandise, are to be fixed by the company, but it is obliged to transport free of charge the Chinese official letter post, and, at half price, Chinese land or sea forces and also Chinese war materials.

12. The Chinese Government transfers to the company the complete and exclusive right to operate the line on its own account and risk, so that the Chinese Government will be in no case responsible for any deficit whatsoever of the company, during the time allotted for the work and thereafter for a further 80 years from the day on which the line is finished and traffic is in operation. This period having elapsed, the line, with all its appurtenances, will pass free of charge to the Chinese Government.

At the expiration of 36 years from the day on which the entire line is finished and traffic is in operation, the Chinese Government will have the right to buy back this line upon repaying in full all the capital involved, as well as all the debts contracted for this line, plus accrued interest.

If — in case the profit realized exceeds the dividends allowed to the shareholders — a part of such capital is repaid, that part will be deducted from the price of repurchase. In no case may the Chinese Government enter into possession of this line before the appropriate sum is deposited in the Russian State Bank.

The day when the line is finished and traffic is in operation, the company will make to the Chinese Government a payment of five million Kuping taels (Kuping Tls. 5,000,000).

Kuang Hsü, 22nd year, 8th month, 2nd day. Berlin, August 27/September 8, 1896.

(Signed) SHU.

RUSSO-CHINESE BANK
(Signed) ROTHSTEIN.
(Signed) PRINCE OUKHTOMSKY.

Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics[1]

Signed at Peking, May 31, 1924, in effect from May 31, 1924

[Excerpt]

ARTICLE IX. The Governments of the two contracting parties agree to settle at the aforementioned conference the question of the Chinese Eastern Railway in conformity with the principles as hereinafter provided:

(1) The Governments of the two contracting parties declare that the Chinese Eastern Railway is a purely commercial enterprise.

[1] League of Nations, *Treaty Series*, Vol. XXXVII, p. 180.

The Governments of the two contracting parties mutually declare that, with the exception of matters pertaining to the business operations which are under the direct control of the Chinese Eastern Railway, all other matters affecting the rights of the national and local Governments of the Republic of China — such as judicial matters, matters relating to civil administration, military administration, police, municipal government, taxation and landed property (with the exception of lands required by the said railway) — shall be administered by the Chinese authorities.

(2) The Government of the Union of Soviet Socialist Republics agrees to the redemption by the Government of the Republic of China, with Chinese capital of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the said railway.

(3) The Governments of the two contracting parties shall settle at the conference, as provided in Art. II of the present agreement, the amount and conditions governing the redemption as well as the procedure for the transfer of the Chinese Eastern Railway.

(4) The Government of the Union of Soviet Socialist Republics agrees to be responsible for the entire claims of the shareholders, bondholders and creditors of the Chinese Eastern Railway incurred prior to the revolution of March 9, 1917.

(5) The Governments of the two contracting parties mutually agree that the future of the Chinese Eastern Railway shall be determined by the Republic of China and the Union of Soviet Socialist Republics, to the exclusion of any third party or parties.

(6) The Governments of the two contracting parties agree to draw up an arrangement for the provisional management of the Chinese Eastern Railway pending the settlement of the questions as provided under Sec. (3) of the present article.

(7) Until the various questions relating to the Chinese Eastern Railway are settled at the conference as provided in Art. II of the present agreement, the rights of the two Governments arising out of the contract of August 27/September 8, 1896, for the construction and operation of the Chinese Eastern Railway, which do not conflict with the present agreement and the agreement for the provisional management of the said railway and which do not prejudice China's rights of sovereignty, shall be maintained.

Agreement for the Provisional Management of the Chinese Eastern Railway[1]

Signed at Peking, May 31, 1924; in effect from that date

The Republic of China and the Union of Soviet Socialist Republics mutually recognizing that, inasmuch as the Chinese Eastern Railway was built with capital furnished by the Russian Government and

[1] League of Nations, *Treaty Series*, Vol. XXXVII, p. 194.

constructed entirely within Chinese territory, the said railway is a purely commercial enterprise and that, excepting for matters appertaining to its own business operations, all other matters which affect the rights of the Chinese national and local Governments shall be administered by the Chinese authorities, have agreed to conclude an agreement for the provisional management of the railway with a view to carrying on jointly the management of the said railway until its final settlement at the conference as provided in Art. II of the agreement on general principles for the settlement of the questions between the Republic of China and the Union of the Soviet Socialist Republics of May 31, 1924, and have to that end named as their plenipotentiaries, that is to say:

His Excellency the President of the Republic of China:

Vi Kyuin Wellington Koo;

The Government of the Union of Soviet Socialist Republics:

Lev Mikhailovich Karakhan;

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I. The railway shall establish, for discussion and decision of all matters relative to the Chinese Eastern Railway, a board of directors to be composed of 10 persons, of whom five shall be appointed by the Government of the Republic of China and five by the Government of the Union of Soviet Socialist Republics.

The Government of the Republic of China shall appoint one of the Chinese directors as president of the board of directors who shall also be the director-general.

The Government of the Union of Soviet Socialist Republics shall appoint one of the Russian directors as vice-president of the board of directors, who shall also be the assistant director-general.

Seven persons shall constitute a quorum, and all decisions of the board of directors shall have the consent of not less than six persons before they can be carried out.

The director-general and assistant director-general shall jointly manage the affairs of the board of directors and they shall both sign all the documents of the board.

In the absence of either the director-general or the assistant director-general, their respective Governments may appoint another director to officiate as the director-general or the assistant director-general (in the case of the director-general, by one of the Chinese directors, and in that of the assistant director-general, by one of the Russian directors).

ART. II. The railway shall establish a board of auditors to be composed of five persons, namely, two Chinese auditors, who shall be appointed by the Government of the Republic of China, and three Russian auditors, who shall be appointed by the Government of the Union of Soviet Socialist Republics.

The chairman of the board of auditors shall be elected from among the Chinese auditors.

ART. III. The railway shall have a manager, who shall be a national of the Union of Soviet Socialist Republics, and two assistant managers, one to be a national of the Republic of China and the other to be a national of the Union of Soviet Socialist Republics.

The said officers shall be appointed by the board of directors and such appointments shall be confirmed by their respective Governments. The rights and duties of the manager and the assistant managers shall be defined by the board of directors.

ART. IV. The chiefs and assistant chiefs of the various departments of the railway shall be appointed by the board of directors.

If the chief of department is a national of the Republic of China, the assistant chief of department shall be a national of the Union of Soviet Socialist Republics, and if the chief of department is a national of the Union of Soviet Socialist Republics, the assistant chief of department shall be a national of the Republic of China.

ART. V. The employment of persons in the various departments of the railway shall be in accordance with the principle of equal representation between the nationals of the Republic of China and those of the Union of Soviet Socialist Republics.

ART. VI. With the exception of the estimates and budgets, as provided in Art. VII of the present agreement, all other matters on which the board of directors cannot reach an agreement shall be referred for settlement to the Governments of the contracting parties.

ART. VII. The board of directors shall present the estimates and budgets of the railway to a joint meeting of the board of directors and the board of auditors for consideration and approval.

ART. VIII. All the net profits of the railway shall be held by the board of directors and shall not be used pending a final settlement of the question of the present railway.

ART. IX. The board of directors shall revise as soon as possible the statutes of the Chinese Eastern Railway Company, approved on December 4, 1896, by the tsarist Government, in accordance with the present agreement and the agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, and, in any case, not later than six months from the date of the constitution of the board of directors.

Pending their revision, the aforesaid statutes, in so far as they do not conflict with the present agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, and do not prejudice the rights of sovereignty of the Republic of China, shall continue to be observed.

ART. X. The present agreement shall cease to have effect as soon as the question of the Chinese Eastern Railway is finally settled at the

conference as provided in Art. II of the agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924.

ART. XI. The present agreement shall come into effect from the date of signature.

[Here follow formal clauses and signatures.]

Declaration VII

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics, having signed the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, hereby agree, in explanation of Art. V of the agreement for the provisional management of the Chinese Eastern Railway of the same date, which provides for the principle of equal representation in the filling of posts by citizens of the Republic of China and those of the Union of Soviet Socialist Republics, that the application of this principle is not to be understood to mean that the present employees of Russian nationality shall be dismissed for the sole purpose of enforcing the said principle. It is further understood that access to all posts is equally open to citizens of both contracting parties, that no special preference shall be shown to either nationality and that the posts shall be filled in accordance with the ability and technical as well as educational qualifications of the applicants.

[Here follow formal clauses and signatures.]

Agreement entered into between the Autonomous Government of the Three Eastern Provinces of the Republic of China and the Government of the Union of Soviet Socialist Republics[1]

Signed at Mukden, September 20, 1924; in force from September 20, 1924

The Autonomous Government of the Three Eastern Provinces of the Republic of China and the Government of the Union of Soviet Socialist Republics, desiring to adjust the various problems concerning mutual rights and privileges, have agreed to conclude an agreement, and have to that end named as their plenipotentiaries, that is to say:

The Autonomous Government of the Three Eastern Provinces of the Republic of China: Cheng Chien, Lü Jung Huan and Chung Shih Ming;

The Government of the Union of Soviet Socialist Republics: Kuznetzov;

[1] *L'Europe nouvelle*, Special Edition No. 3, September 5, 1925, p. 54.

Who, having communicated to one another their respective full powers found to be in good and due form, have agreed upon the following articles:

ARTICLE I. The Governments of the two contracting parties agree to settle the question of the Chinese Eastern Railway as follows:

(1) (Repeats Art. IX, 1, of Sino-Soviet agreement on general principles, May 31, 1924.)

(2) That part of this agreement, which pertains to the Chinese Eastern Railway, shall cease to have effect as soon as an agreement has been reached between the two contracting parties in regard to the redemption by China of this railway, or upon the expiration of the period mentioned in Item 13 of Art. 1 of this agreement, when the railway will be returned to China.

(3) (Repeats Art. VI of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(4) (Repeats Art. VII of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(5) (Repeats Art. IX, 5, of Sino-Soviet agreement on general principles, May 31, 1924.)

(6) The contract of August 27 (September 8), 1896, for the construction and operation of the Chinese Eastern Railway shall be revised within four months after the signing of this agreement by a commission to be appointed by the two contracting parties, in accordance with the articles herein contained. Until the said contract is revised, the rights of the two Governments arising therefrom, which do not conflict with this agreement nor prejudice China's rights of sovereignty, shall be maintained.

(7) (Repeats Art. II of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(8) The Government of the Union of Soviet Socialist Republics agrees to the settlement of the question of the indebtedness of the Chinese Eastern Railway Company, by a commission to be appointed by the two contracting parties, in accordance with Item 4 of Art. IX of the Sino-Russian agreement on general principles signed at Peking on May 31, 1924.

(9) All the net profits of the railway shall be held by the board of directors and shall not be used before the question as to how to divide these profits between the two contracting parties is settled by a commission to be appointed by the two Governments.

(10) (Repeats Art. IX of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(11) (Repeats Art. IV of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(12) (Repeats Art. V. of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

NOTE. — In carrying out the aforesaid principle of equal representation, the regular operation of the railway and the progress of its affairs

shall in no wise be hampered and hindered. That is, the appointment of officers of both nationalities shall be governed by the consideration of their experience, character and qualifications.

(13) The concession period of 80 years mentioned in Art. 12 of the contract of August 27 (September 8), 1896, for the construction and operation of the Chinese Eastern Railway shall be reduced to 60 years, upon the expiration of which the line with all its appurtenances will pass free of charge to the Chinese Government.

The question of further reducing the aforementioned period of 60 years may be taken up for consideration with the approval of the two contracting parties.

The Union of Soviet Socialist Republics agrees, upon the signing of this agreement, to the redemption by China of the said railway with Chinese capital, the actual and fair cost of which to be fixed by the two contracting parties.

(14) (Repeats Art. III of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(15) (Repeats Art. I of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

Art. II. (Repeats Art. VI of Sino-Soviet agreement on general principles, May 31, 1924.)

Art. III. The two contracting parties agree to settle the question relating to the navigation, by their respective ships of all kinds, of rivers, lakes and other bodies of water which are common to their respective frontiers, on the basis of equality and reciprocity; the details of which question shall be fully regulated within two months after the signing of this agreement by a commission to be appointed by the two contracting parties. Inasmuch as the passenger and freight traffic on the Lower Amur down to its mouth and on the Sungari up to Harbin are questions concerning momentous privileges on the part of the Republic of China and on that of the Union of Soviet Socialist Republics respectively, the two contracting parties agree to authorize the said commission to discuss these questions with a view to preserving their respective privileges in accordance with the principles of equality and reciprocity.

Art. IV.[1] The various commissions provided in the foregoing articles shall begin to officiate within one month after the signing of this agreement, and all questions shall be settled by them as soon as possible, and in any case, except where time has been fixed in the foregoing articles, not later than six months.

Art. V. (Repeats Art. VII of Sino-Soviet agreement on general principles, May 31, 1924.)

Art. VI. (Repeats Art. XIII of Sino-Soviet agreement on general principles, May 31, 1924.)

[1] Compare Art. II of the agreement on general principles.

c. Dispute over Chinese Assumption of Railway Control and Communist Activities [1]

The Soviet Acting Commissar to the Chinese Chargé d'Affaires at Moscow, July 13, 1929 [2]

By the instruction of the Government of the Union of Soviet Socialist Republics we request to inform the Mukden Government and the National Government of Nanking the following:

According to information received by the Government of the U. S. S. R. the Chinese authorities of Harbin have raided on the morning of July 10 the Chinese Eastern Railway and seized the telegraph of the latter along the whole line interrupting thereby the telegraph communication with the U. S. S. R. and have closed and sealed without explaining the reasons the Trade Mission of the U. S. S. R. as well as the branches of the Gostorg, Textile Syndicate, Naphtha Syndicate and the Soviet Merchant Marine. The *tupan* of the railway, Mr. Lu Chung-huang, has submitted to the manager of the railway, Mr. Emshanov, the demand to hand over the management of the railway to the person appointed by the *tupan*. When Manager Emshanov refused to comply with this unlawful demand, which presents a gross violation of the agreement regarding the provisional management of the Chinese Eastern Railway concluded in Peking on May 31, 1924, as well as the agreement concluded between the Government of the U. S. S. R. and the Government of the Autonomous Three Eastern Provinces of the Chinese Republic concluded in Mukden on September 20, 1924, he was removed from the performance of his duties as well as the assistant manager, Mr. Eismont. Both were then replaced by persons appointed by the *tupan*. The chiefs of the rolling stock and traffic divisions and other persons by the order of the same *tupan* were removed and replaced mostly by Russian white guards. Along the entire line of the railway there have been closed and suppressed the trade union and cooperative organizations of the workers and employees of the railway, also many searches and arrests have taken place, and over 200 Soviet citizens, workers and employees of the railway, were arrested. Sixty Soviet citizens including the manager of the railway Emshanov and the assistant manager Eismont have already been sent out from the territory of China.

Simultaneously there have been received reports about the concentration along the Soviet border of Manchurian troops which were

[1] The correspondence given is a selection intended to make the issues clear to the reader. The Soviet note of May 31 discussing the raid on Soviet consulate general at Harbin; the note of Hsia Wei-sung, Chinese chargé d'affaires at Moscow, dated July 17, replying to the Soviet note of July 13; and the National Government's circular manifesto of July 19 are omitted. *Cf. L'Europe nouvelle*, August 3, 1929, p. 1077; *New York Times*, July 22, and *Week in China*, July 27, p. 591.

[2] *Week in China*, July 20, 1929, p. 566; *L'Europe nouvelle*, August 3, 1929, p. 1078.

put on a war footing and moved to the very border. According to information received here together with the Manchurian troops concentrated on the border of the U. S. S. R. there are also located Russian white guard detachments which the Manchurian command intends to throw across the Soviet border.

The above actions represent most obvious and grossest violations of clear and unequivocal clauses of agreements concluded between the U. S. S. R. and China. These violations will not become less atrocious for the reason that the *tupan* of the railway in his announcement himself refers to the duty of the representatives of both parties on the railway to strictly observe the agreements, attempting to mask his openly illegal actions by this reference.

As is clear from Art. I of the agreement about the provisional management of the Chinese Eastern Railway of May 31, 1924, and from the analogous Art. I, clause 6, of the Mukden agreement all questions relating to the Chinese Eastern Railway are to be discussed and settled by the board of directors of 10 persons, and "decisions of the board of directors are to become effective if approved by not less than six members of the board." The chairman of the board of directors, being a Chinese citizen, and the vice-chairman, a Soviet citizen, "jointly supervize the affairs of the board of directors and both sign all the documents of the latter."

Thus, the very fact of the issuance by the *tupan* of the one-sided order over his single signature and without coordinating his action either with the board of directors or with his assistant, who is a Soviet citizen, makes this act of his obviously unlawful, not to mention the fact that this act absolutely violates the principle of parity established by the Soviet-China agreements.

According to Art. III of tne same Peking agreement and Art. I, clause 8, of the Mukden agreement, "the management of the railway devolves upon the manager, a citizen of the U. S. S. R., and two assistant managers of whom one must be a citizen of the U. S. S. R. and the other a citizen of the Chinese Republic. The above officials are appointed by the board of directors and confirmed by the respective Governments." Their rights and duties are determined by the board of directors who appoint also chiefs and assistant chiefs of various departments of the railway.

Thus, the dismissal of the manager of the railway by the order of the *tupan* and his replacement even temporarily by a Chinese citizen as well as the arbitrary dismissal of the assistant manager and a number of other officials of the railway violates the basic clauses of the agreements of 1924 and radically changes the system of the management of the railway which had been established by the agreements between the Governments of the U. S. S. R. and China and recorded in the agreements effective between the two countries. This wholly unjustifiable violation is the more atrocious since, as follows from the

articles of the agreements quoted above, the appointment and consequently the dismissal of the above officials is the prerogative of the board of directors as a whole and can not be done otherwise, in particular by one-sided personal orders of the *tupan* of the railway.

The *tupan* in his announcement refers to the order issued by him to Manager Emshanov regarding the putting into effect of a number of demands of the Chinese side concerning the manner of the management of the railway. The manager of the railway, however, is the executive organ of the entire board of directors as a whole and can not carry out orders of the *tupan* or his assistant if they are not issued from the board of directors itself over the signatures of the chairman and his assistant as required by Art. I, clause 6, of the Soviet-Mukden agreement of 1924. The very reference to the non-compliance by the manager of the railway with the personal orders of the *tupan* only confirms the illegal character of the *tupan's* actions.

According to the spirit and letter of the Peking and Mukden agreements of 1924 the Chinese Eastern Railway is an object of joint management between the U. S. S. R. and China, and the Chinese Eastern Railway may become the property of China either upon the expiration of the time fixed by the agreement or before the expiration of the time by the redemption of the railway by China by the agreement of both parties. The above-stated illegal actions of the *tupan* of the Chinese Eastern Railway sanctioned by the Chinese Government mean in effect seizure of the railway and an attempt of one-sided cancellation of existing agreements.

Agreements of 1924 establish a quite definite procedure of the regulation of all disputable questions concerning the railway. According to Art. VI of the agreement of May 31, 1924, signed at Peking and Art. I, clause 2, of the Mukden agreement, "all questions on which the board of directors can not come to agreement must be submitted for consideration to the Governments of the contracting parties for just and friendly settlement." Each of the parties has, thus, full opportunity to raise before the other party any question in a quite lawful and normal manner and to endeavor to have its demands realized. However, the Chinese side in this case as in some preceding cases, as for instance the recent seizure of the telephone station, preferred the path of one-sided and unlawful actions which not only violate but destroy the agreements existing between U. S. S. R. and China.

Stating that the above actions of the *tupan* of the Chinese Eastern Railway constitute a gross violation of the existing agreements between the U. S. S. R. and China, the Government of the U. S. S. R. enters the most emphatic protest regarding these actions and draws the attention of the Mukden Government and the National Government of the Chinese Republic to the extreme seriousness of the situation created by these actions.

The Government of the Soviet Union has given repeated proofs of

its peacefulness and friendly attitude toward China and toward the struggle for equal treaties and the restoration of the sovereignty of China. The Government of the U. S. S. R. had at its own initiative already in 1919 addressed a declaration to the Chinese people in which it declared its readiness to abolish all unequal treaties made between China and tsarist Russia. In the agreement of 1924 the Government of U. S. S. R. has put into effect all its declarations. The Government of the U. S. S. R. had voluntarily renounced in favor of China its concessions in Tientsin and Hankow. It had voluntarily renounced consular jurisdiction, extraterritoriality, for its citizens living in China. At its own initiative it had renounced the Boxer indemnity, turning it over to the cause of education of the Chinese people. Lastly, it also voluntarily renounced all those privileges which were granted Russia on the Chinese Eastern Railway, namely, the right to have in China its troops, police courts and other military administrative functions which until then had been the prerogative of the Russian authorities on the Chinese Eastern Railway and along the entire right of way of this railway. The renouncing of all the privileges which foreign Governments still enjoy, with whom China maintains normal relations, was the manifestation of the socialist character of the foreign policy of the Soviet state. The conclusion of the agreement of 1924 between the U. S. S. R. and China was met with the greatest sympathy in all parts of China, for this agreement for the first time realizes the principle of equality of the parties and the full sovereignty of China.

From the above it follows that if the Chinese authorities had any claims in regard to the order established on the railway or even in regard to the rights on the railway established by the agreements, including the reduction of the time limit of the agreement and the redemption of the railway before the expiration of the time limit, these authorities had the full opportunity provided by the agreements to submit any claim to the Government of the U. S. S. R. in a legal manner.

The Government of the U. S. S. R. states that in questions concerning the Chinese Eastern Railway it has invariably manifested its readiness for the friendly regulation of any disputable questions. As recently as February 2, 1929, in the note handed by the consulate general of the U. S. S. R. at Mukden to the Central Diplomatic Department of the Three Eastern Provinces of the China Government, the U. S. S. R. declared that it "considers it extremely desirable that all disputable issues and particularly questions concerning the order of things on the railway which remained unsolved during past years and which has caused misunderstandings and complicated the normal work of the railway should be considered and settled for the purpose of removing possible misunderstandings and conflicts." This proposal, which testifies to what extent the Government of the U. S. S. R. has been ready to meet the reasonable wishes of the Chinese side enabled the Chinese Government to submit for consideration any of the questions

which interested it. The Chinese side, however, did not wish to take advantage of the opportunity which the proposal of the Soviet Government of February 2, 1929, offered, and this proposal has remained unanswered. Similarly, there was no answer to the telegram sent July 11, 1929, and signed by the people's commissar of ways of communications. This telegram, addressed to the chairman of the board of directors of the Chinese Eastern Railway, Lu Chung-huang, declared the readiness to immediately discuss all outstanding issues, informing the chairman of the board of directors of the railway that Mr. Serebriakov, member of the collegium of the commissariat of ways of communication, has been intrusted by the latter to conduct these negotiations.

All these facts exhaustively testify to the complete ineptness of the references made by the *tupan* of the railway in his above-stated announcement to the alleged fruitless attempts of the Chinese side to readjust the outstanding issues mentioned above.

The policy of friendly and peaceful solution of all outstanding issues and the policy of respect for the sovereign rights of China which constitutes a radical negation of the basis of the imperalist policy of bourgeois countries, the present Chinese authorities are apparently inclined to regard not as a policy derived from the very nature of Soviet power but as a manifestation of its weakness. This is evidently the reason why the Chinese authorities allow themselves a number of grossly violent and provocative actions toward the U. S. S. R., abusing the latter's peacefulness. The Government of the U. S. S. R. is therefore compelled to remind the Chinese authorities that it possesses sufficient means necessary to protect the lawful rights of the peoples of the U. S. S. R. against any violent attempts.

Remaining true to its peaceful policy the Soviet Government, notwithstanding the violent and provocative actions of the Chinese authorities, once more expresses its willingness to enter into negotiations with China regarding all questions connected with the Chinese Eastern Railway. Such negotiations, however, are possible only provided the Chinese authorities carry out the immediate release of the arrested citizens of the U. S. S. R. and the cancellation of all their illegal orders.

The Soviet Government accordingly proposes the following: 1, To call immediately a conference to regulate the questions connected with the Chinese Eastern Railway; 2, The Chinese authorities shall immediately cancel all the arbitrary orders regarding the Chinese Eastern Railway; 3, All arrested Soviet citizens are to be immediately released and the Chinese authorities shall cease all persecution of Soviet citizens and Soviet institutions.

The Soviet Government proposes to the Mukden Government and to the National Government of the Chinese Republic to weigh the serious consequences which the rejection of these proposals will have.

The Government of the U. S. S. R. declares that it will wait three days for the answer of the Chinese Government to the proposal stated

above and warns that in the event of not receiving a satisfactory reply it will be compelled to resort to other means for the protection of the lawful rights of the U. S. S. R.

KARAKHAN.

The Soviet Acting Commissar to the Chinese Chargé d'Affaires at Moscow, July 18, 1929 [1]

Confirming the receipt of your note of July 17 [2] containing the answer of the Chinese Government at Nanking to the note of the U. S. S. R. Government of July 13, I have the honor to advise you on behalf of the Government of the U. S. S. R. of the following:

The Government of the U. S. S. R. considers the reply of the Chinese Government as unsatisfactory in content and hypocritical in tone.

Desirous of reestablishing the legal basis in the relations between the U. S. S. R. and China which have been disturbed by the Chinese authorities, the Government of the U. S. S. R. has advanced in its note of July 13 three absolutely necessary and perfectly moderate proposals:

1. The cancellation of one-sided and entirely unlawful actions of the Chinese authorities on the Chinese Eastern Railway which are violating the existing relations between the U. S. S. R. and China;

2. The cessation of repressions against Soviet citizens and Soviet institutions;

3. The convocation of a conference by both sides to regulate all questions connected with the Chinese Eastern Railway.

The Chinese Government in its reply to the proposal of the U. S. S. R. has essentially rejected these proposals.

Instead of the restoration of the Peking and Mukden agreements which has been abolished by one-sided action of the Chinese authorities and retaining the basis for neighborly relations, the note of the Chinese Government sanctions the one-sided abolishing of this agreement and thereby destroys the possibility of normal relations between two states.

Instead of reversing the unlawful actions of the *tupan* of the Chinese Eastern Railway who has violently removed from office official persons appointed by the administration and by the request of the U. S. S. R., the note of the Chinese Government sanctions these unlawful actions justifying thereby the seizure of the Chinese Eastern Railway.

Instead of the discontinuation of the unlawful repressions against Soviet citizens and Soviet institutions the note of the Chinese Government sanctions these repressions and hypocritically attempts to justify them by the false reference to some mass repressions against Chinese citizens in the U. S. S. R., being well aware that repressions in the U. S. S. R. are being applied only against an insignificant group of spies, opium traders, den keepers, smugglers and other criminal elements among the Chinese citizens.

[1] *Week in China*, July 20, 1929, p. 572.

[2] See *L'Europe nouvelle*, August 3, 1929, p. 1080.

Instead of a direct agreement for an immediate convocation of a conference by the two parties to regulate all controversial questions, the note of the Chinese Government evades this question, rejecting thereby the proposal of the U. S. S. R. for a conference and destroying the possibility of regulating the dispute by agreement of the two parties.

The reference of the note of the Chinese Government to propaganda as the cause of the unlawful actions of the Chinese authorities is false and hypocritical, for the Chinese authorities possess on their territory sufficient means to prevent and to stop such activity had it actually taken place without seizing the Chinese Eastern Railway and severing the treaty relations existing between China and the U. S. S. R.

The real reason for the violent actions of the Chinese authorities on the Chinese Eastern Railway and the sanctioning of the violence by the Chinese note of July 17 becomes particularly clear from the official declaration of the head of the Chinese state, Mr. Chiang Kai-shek, published in the press. In this declaration, Mr. Chiang Kai-shek speaking of the unlawful actions of the Chinese authorities on the Chinese Eastern Railway and justifying these actions plainly declares: "Our steps to take over the Chinese Eastern Railway contain nothing unusual. . . . We want first to take hold of the Chinese Eastern Railway, then to take up the discussion of all other questions." This statement of Mr. Chiang Kai-shek leaves no doubt as to the real meaning of the note of the Chinese Government of July 17.

In view of the above, the Government of the U. S. S. R. notes that the means necessary to regulate amicably the controversies and disputes on the Chinese Eastern Railway caused by the Chinese authorities and aggravated by the note of the China Government of July 17 have been exhausted.

On the basis of the above facts the Government of the U. S. S. R. is compelled to take the following measures, placing the entire responsibility for the consequences upon the Chinese Government:

1. To recall all Soviet diplomatic, consular and commercial representatives from the territory of China;

2. To recall all persons appointed by the Government of the U. S. S. R. on the Chinese Eastern Railway from the territory of China;

3. To suspend all railway communications between China and the U. S. S. R.;

4. To order the diplomatic and consular representatives of the Chinese Republic in the U. S. S. R. to leave immediately the territory of the U. S. S. R.

At the same time the Government of the U. S. S. R. declares that it reserves all rights arising from the Peking and Mukden agreements of 1924.

KARAKHAN.

Communication of the National Government of the Republic of China to the Signatories of the Treaty for the Renunciation of War [1]

On the 27th of May, 1929, the police headquarters of the Harbin Special Area, having received reliable reports that a propaganda conference of the Tnird Internationale (Comintern) was to be held at the local Soviet consulate between 12 noon and 3 P.M. on that day, detailed a special force to conduct a search of the consulate premises. Over 80 persons attended the conference, and all were placed under arrest. Forty-two are members of the Soviet consulate — such as Melnikov, the Soviet consul general; Znaminsky, the Soviet vice consul; and Kuznetzov, the Soviet consul general at Liaoning (Mukden). Thirty-nine are important officials of the Chinese Eastern Railway, members of the Chinese Eastern Railway Labor Union, the Soviet Central Commercial Federation, the Soviet Mercantile Shipping Bureau, the Soviet Far Eastern Petroleum Bureau, and the Soviet Far Eastern National Trading Bureau, and communist leaders of the Harbin Special Area, Chita, Harborovsk and other centers along the same railway. Of these the most important leaders are Zimbarevich, manager of the Far Eastern National Trading Bureau; Taranov, inspector of the Mercantile Shipping Bureau, and Stankevich, member of the commercial department of the Chinese Eastern Railway. All three are members of the North Manchuria executive committee under the direct control of Harborovsk. This committee supervises the Chinese Eastern Railway Labor Union, the Young Men's Communist Group, the Boys' and Women's Communist Groups, and other organizations.

Various documents and evidence of plots and conspiracy, as well as propaganda material, were discovered. Thirty-nine were taken to the police headquarters for detention and cross-examination. Melnikov and the other members of his staff were permitted to remain in the consulate while Kuznetzov was escorted back to Liaoning.

A thorough examination of the arrested persons and the documents discovered in the premises revealed the fact that the Union of Soviet Socialist Republics was not only conducting communist propaganda in China but was actually pushing forward its secret plans to nullify China's unification, to overthrow the Chinese Government, to organize secret forces for destroying the Chinese Eastern Railway, and to carry out a policy of wholesale assassinations and thereby bring about a world-wide revolution. What is more, the Chinese Eastern Railway and the Soviet state enterprises and organizations were being utilized as bases for carrying out the nefarious schemes of the Union of Soviet Socialist Republics.

In order to preserve peace and order and to nip the menace in the bud, the local authorities felt compelled to adopt precautionary measures. On July 10, 1929, they dissolved the labor union of the Chinese

[1] Reprinted from Department of State release.

Eastern Railway, the Young Men's Communist Group and the Boys' and Women's Communist Groups, and sealed up the offices of the Soviet Far Eastern National Trading Bureau, the Soviet Far Eastern Petroleum Bureau, the Soviet Mercantile Shipping Bureau and the Soviet Central Commercial Federation. At the same time Emshanov and Ezementov, Soviet manager and assistant manager, respectively, of the Chinese Eastern Railway, as well as 60 important communist leaders of the Labor Union were dismissed and taken to the frontier, owing to their abuse of the special position in the railway and their participation in the plots and conspiracy against the safety of the railway.

Art. VI of the Sino-Soviet agreement of 1924 provides as follows:

"The Governments of the two contracting parties mutually pledge themselves not to permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.

"The Governments of the two contracting parties further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party."

The facts being as above stated, it is clear that the Union of Soviet Socialist Republics has violated the entire treaty stipulation. Since the Soviet manager and assistant manager and other important officials of the Chinese Eastern Railway as well as the Labor Union and other unions of the railway and other Soviet state enterprises and organizations have not only carried on propaganda directed against the political and social system of China, but also conspired to overthrow the Chinese Government, to destroy the Chinese Eastern Railway and to perpetrate other outrages, the Chinese Government was constrained by the urgency of the situation to maintain the integrity of the agreement and adopt precautionary measures in pursuance of the treaty undertaking of the two Governments that they would not "permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party." And since these precautions are justified by the above-cited precedent, the Chinese Government was under no obligation to consult the Soviet Government beforehand, nor was it able so to do. The action taken against the Soviet manager and assistant manager of the Chinese Eastern Railway in consequence of their participation in the above-mentioned plots is amply warranted by the same treaty provisions and has no connection whatever with the question of the right of administrative control over the railway.

Moreover, ever since 1927 repeated Soviet attempts have been unearthed in northern and southern China to conduct communist propaganda from the vantage points of the Soviet embassy, consulates and state enterprises and organizations, to use the revenue of the Chinese Eastern Railway for supplying funds to the counter-

revolutionary elements in China, to overthrow the Chinese Government and to destroy China's political and social system. The documents and evidence found recently in the Soviet consulate at Harbin establishes the further fact that important Soviet officials of the Chinese Eastern Railway are important communist leaders for conducting such propaganda. Under the cover of their special status as railway employees and relying upon the support of the Labor Union to tighten their hold upon the railway, they have conspired to obstruct the smooth working of the Chinese Eastern Railway, sacrificed its true interests and endangered the safety of China.

Confronted by these accumulated facts and evidence the Chinese Government can not but feel the gravest concern for the future of the railway. It can only wait for the Soviet Government to awake to a full realization of that Government's responsibility and together with it to devise a fundamental solution in connection with the provisions of their agreement, so that a recurrence of the attempt by Soviet nationals to abuse their employment in the railway and reenact the same incidents as those recently discovered may be obviated and the safety of the railway preserved. In that way communications between Europe and Asia may be maintained uninterruptedly.

The precautionary measures adopted by the Chinese Government had been called forth by the conspiracy of the Soviet manager and assistant manager and other important employees of the Chinese Eastern Railway and other Soviet state groups acting in direct violation of Art. VI of the agreement of 1924. Yet in the note dated July 13 received from the Soviet Government, the measures adopted by the Chinese Government in pursuance of the above-mentioned agreement were characterized as calculated to abrogate the existing agreement and to seize the Chinese Eastern Railway. In addition, the precautions adopted by China to combat the plots of the employees of the railway acting in violation of the agreement were purposely lumped together with the question of the administrative control over the railway so as to whitewash the illegal acts of officials of the Soviet Government, the railway and other state groups and organizations and thereby disclaim the responsibility of treaty violation. Furthermore, in utter disregard of the actual facts, a reply was demanded to be given within a stated number of days.

The Soviet Government was well aware that the Soviet employees had been removed from their posts because of their acts in contravention of the agreement and yet it demanded that China restore the status quo. The Soviet Government was well aware that the 39 communists had been arrested because of their conspiring in the Harbin Soviet consulate to conduct Soviet propaganda against China's own safety, and yet it demanded their release. Finally, the Soviet Government insisted on satisfaction being given to its proposals, although unjustified by the facts, as a condition for holding a conference to settle the various outstanding questions in connection with

the Chinese Eastern Railway and thus compel the Chinese Government into adopting a defensive position.

In conformity with its traditional, peaceful and liberal policy, however, the Chinese Government replied on the 17th of the same month according to the actual facts of the case. The language of China's reply was couched in all sincerity and it was hoped that the Soviet Government would realize its mistakes and make amends for its improper acts. Moreover, in response to the Soviet suggestions that the Chinese chargé d'affaires in Moscow be authorized to settle the outstanding questions in connection with the Chinese Eastern Railway, the Chinese Government stated that it would instruct its chargé d'affaires to return to Moscow and discuss with the Soviet Foreign Office a reasonable and legal solution of such questions.

Unfortunately the Soviet Government chose to persist in its arrogant attitude and employ misrepresentation for whitewashing the actual facts. On the 18th of July, it declared, first, that it would recall its embassy and consular staffs; second, that it would recall its nationals who were serving in the Chinese Eastern Railway; third, that it would sever railway communications between China and Soviet Russia, and, fourth, that China should immediately withdraw her embassy and consular staffs from Soviet territory. Such action on the part of the Soviet Government constitutes a gross violation of the Sino-Soviet agreement, a contemptuous disregard for international good faith, a wilful juggling of the actual facts, a misrepresentation of the true intent contained in China's reply and a calculated design to bring about the present situation which has resulted in a severance of international communication. The responsibility for such a situation should be shouldered entirely by the Soviet Government.

According to the reports of the frontier officials, the Soviet Government has been dispatching and preparing active troops to be distributed along the Chinese border and indulged in rifle shooting by way of threat and also sent airplanes to reconnoiter over China's territory. Should such acts of provocation on the part of the Soviet Government result in unavoidable clashes arising out of China's determination to defend her own rights the responsibility for disturbing the peace of the world must entirely rest with the Soviet Government. In a manifesto issued to the public on July 19 the Chinese Government declared that it would employ its entire strength within the scope of self-defense to act up to the spirit of the treaty for the renunciation of war and would persevere in the maintenance of that attitude.

In the renunciation of war, it will, apart from preserving its territorial sovereignty and adopting precautionary measures of self-defense against external invasions, strictly abide by Art. II of the treaty, for the pacific settlement of international disputes. Consequently, the Chinese Government, whether now or in the future, is ready at any time within the limits of possibility to discuss and settle with the Soviet Government the disputes induced by a misrepresentation of facts on the part of the Soviet Government.

VIII. AGREEMENTS FOR PEACE

1a. Treaty between the United States, the British Empire, France and Japan relating to their Insular Possessions and Insular Dominions in the Region of the Pacific Ocean [1]

Signed at Washington, December 13, 1921; in force from August 17, 1923

The United States of America, the British Empire, France and Japan,

With a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean,

Have determined to conclude a treaty to this effect and have appointed as their plenipotentiaries: . . .

Who, having communicated their full powers, found in good and due form, have agreed as follows:

I. The high contracting parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the high contracting parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other high contracting parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

II. If the said rights are threatened by the aggressive action of any other power, the high contracting parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.

III. This treaty shall remain in force for 10 years from the time it shall take effect, and after the expiration of said period it shall continue to be in force subject to the right of any of the high contracting parties to terminate it upon 12 months' notice.

IV. This treaty shall be ratified as soon as possible in accordance with the constitutional methods of the high contracting parties and shall take effect on the deposit of ratifications, which shall take place at Washington, and thereupon the agreement between Great Britain

[1] United States, *Treaty Series*, No. 669; *Conference on the Limitation of Armament*, p. 1612.

and Japan, which was concluded at London on July 13, 1911, shall terminate. The Government of the United States will transmit to all the signatory powers a certified copy of the *procès-verbal* of the deposit of ratifications.

The present treaty, in French and in English, shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof will be transmitted by that Government to each of the signatory powers.

[Here follow formal clauses and signatures.]

Reservation of the United States

[Excerpt from the President's proclamation.]

The said treaty was ratified by the United States subject to the reservation and understanding that "The United States understands that under the statement in the preamble and under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense."

Declaration signed Separately December 13, 1921

In signing the treaty this day between the United States of America, the British Empire, France and Japan, it is declared to be the understanding and intent of the signatory powers:

1. That the treaty shall apply to the mandated islands in the Pacific Ocean; provided, however, that the making of the treaty shall not be deemed to be an assent on the part of the United States of America to the mandates and shall not preclude agreements between the United States of America and the mandatory powers respectively in relation to the mandated islands.

2. That the controversies to which the second paragraph of Art. I refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective powers.

1*b*. Treaty between the United States, the British Empire, France and Japan Supplementary to the Treaty relating to their Insular Possessions and Insular Dominions in the Region of the Pacific Ocean [1]

Signed at Washington, February 6, 1922; in force from August 17, 1923

The United States of America, the British Empire, France and Japan have, through their respective plenipotentiaries, agreed upon the following stipulations supplementary to the quadruple treaty signed at Washington on December 13, 1921:

[1] United States, *Treaty Series*, No. 670; *Conference on the Limitation of Armament*, p. 1619.

The term "insular possessions and insular dominions" used in the aforesaid treaty shall, in its application to Japan, include only Karafuto (or the southern portion of the island of Sakhalin), Formosa and the Pescadores, and the islands under the mandate of Japan.

The present agreement shall have the same force and effect as the said treaty to which it is supplementary.

The provisions of Art. IV of the aforesaid treaty of December 13, 1921, relating to ratification shall be applicable to the present agreement, which in French and English shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to each of the other contracting powers.

[Here follow formal clauses and signatures.]

2. Treaty between the United States, the British Empire, France, Italy and Japan limiting Naval Armament [1]

Signed at Washington, February 6, 1922; in force from August 17, 1923

[Excerpt]

ARTICLE XIX. The United States, the British Empire and Japan agree that the status quo at the time of the signing of the present treaty, with regard to fortifications and naval bases, shall be maintained in their respective territories and possessions specified hereunder:

(1) The insular possessions which the United States now holds or may hereafter acquire in the Pacific Ocean, except (*a*) those adjacent to the coast of the United States, Alaska and the Panama Canal Zone, not including the Aleutian Islands, and (*b*) the Hawaiian Islands;

(2) Hongkong and the insular possessions which the British Empire now holds or may hereafter acquire in the Pacific Ocean, east of the meridian of 110° east longitude, except (*a*) those adjacent to the coast of Canada, (*b*) the Commonwealth of Australia and its territories, and (*c*) New Zealand;

(3) The following insular territories and possessions of Japan in the Pacific Ocean, to wit: The Kurile Islands, the Bonin Islands, Amami-Oshima, the Loochoo Islands, Formosa and the Pescadores, and any insular territories or possessions in the Pacific Ocean which Japan may hereafter acquire.

The maintenance of the status quo under the foregoing provisions implies that no new fortifications or naval bases shall be established in the territories and possessions specified; that no measures shall be taken to increase the existing naval facilities for the repair and maintenance of naval forces, and that no increase shall be made in the coast defenses of the territories and possessions above specified. This re-

[1] *Conference on the Limitation of Armament*, Washington, 1921–1922, p. 1581–1582; United States, *Treaty Series*, No. 671.

striction, however, does not preclude such repair and replacement of worn-out weapons and equipment as is customary in naval and military establishments in time of peace.

3. The Treaty for the Renunciation of War as an Instrument of National Policy[1]

Signed at Paris, August 27, 1928; in force July 24, 1929, for Afghanistan, Albania, Australia, Austria, Belgium, Bulgaria, Canada, Chile (August 12), China, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, Estonia, Ethiopia, Finland, France, Germany, Great Britain, Greece (August 3), Honduras (August 5), Hungary, Iceland, India, Irish Free State, Italy, Japan, Latvia, Liberia, Lithuania, Luxemburg (August 24), Netherlands, New Zealand, Nicaragua, Norway, Panama, Persia, Peru, Poland, Portugal, Rumania, Serb-Croat-Slovene State, Siam, South Africa, Soviet Union, Spain, Sweden, Switzerland (September 5), Turkey, United States; Costa Rica, Haiti and Venezuela had perfected adherences on August 1.

The President of the German Reich, the President of the United States of America, His Majesty the King of the Belgians, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland, the President of Czechoslovak Republic,

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective plenipotentiaries

(Here follows a list of the plenipotentiaries)

[1] United States, *Treaty Series*, No. 796.

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

ART. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ART. III. The present treaty shall be ratified by the high contracting parties named in the preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This treaty shall, when it comes into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other powers of the world. Every instrument evidencing the adherence of a power shall be deposited at Washington and the treaty shall immediately upon such deposit become effective as between the power thus adhering and the other powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective plenipotentiaries have signed this treaty in the French and English languages both texts having equal force and hereunto affix their seals.

Done at Paris, the 27th day of August in the year one thousand nine hundred and twenty-eight.

[The signatures of the plenipotentiaries follow.]

THE UNITED STATES

AND THE

WORLD COURT

By PHILIP C. JESSUP

Assistant Professor of International Law
Columbia University

Foreword by
ELIHU ROOT

WORLD PEACE FOUNDATION PAMPHLETS
40 MT. VERNON STREET, BOSTON

VOL. XII 1929 NO. 4

Copyright, 1929
By World Peace Foundation
Boston, Massachusetts

FOREWORD

This book states intelligently and accurately the international proceedings following the resolution of January 27, 1926, by which the Senate consented upon certain conditions in the form of reservations, that the United States should adhere to the protocol or treaty, creating the Permanent Court of International Justice.

Professor Jessup is specially qualified to write such an account for he took part in much that was done and he understands the meaning and effect of the events which he describes. He shows how the principal States already supporting the Court have reached a willingness to accept all the Senate reservations in full, accompanied by a practical working agreement providing for the application of the reservations to concrete cases as they arise, in such a way as to avoid interference with current business in which the United States is not concerned. The book carefully confines itself to the explanation of facts without arguing about them.

To appreciate the full significance of the facts the reader must remember that all the apparently dry details are inevitable parts of a very great movement in human progress. Long before our time many sensible people began to think that as the private wars of former centuries had been in a great measure done away with by the establishment of Courts to decide personal controversies, just so public wars between civilized nations in an equal measure might be done away with by the establishment of International Courts to decide international controversies.

Very gradually, through many years, by an almost infinite number of small advances, that idea has established itself in the minds of men practically concerned in international affairs. The distinguished and universally

acknowledged success of the Permanent Court of International Justice now sitting at the Hague proves that the idea was sound and that civilization has found a great new instrument for the maintenance of peace with justice. First was the dream and then the hope and then the practical policy and now is the test of the policy. America was long the foremost advocate of this great experiment. American idealism is for it. All the Presidents of the United States for more than thirty years, that is to say, all the men specially charged with the practical conduct of the foreign affairs of the United States, have been expressly and publicly for it. The House of Representatives, whose action would be required to appropriate our proportional contribution to the expense of the Court, has declared itself by formal resolution in favor of our adhesion. The Senate has advised and consented to adhesion upon five conditions designed to protect American interests. All the principal powers now in the Court are ready to accept all those conditions of the Senate.

Nothing remains but the question whether in the practical working arrangements proposed for giving effect to the Senate resolutions there is anything that so imperils the interests of the United States as to prevent the execution of a major public policy of the United States. To the study of that question this history should be a valuable contribution.

Elihu Root

CONTENTS

PAGE

I. From Senate Reservations to Root Plan . . . 1
The acceptance of the Senate reservations . . . 12

II. Negotiations on the United States Reservations . 14
First reservation: *re* legal relations with League of Nations and obligations under the treaty of Versailles 14
Second reservation: *re* equality with Members of League of Nations 16
Third reservation: *re* expenses of the Court . . . 18
Fourth reservation: first part — *re* withdrawal . . 19
Fourth reservation: second part — *re* amendment of the Statute of the Court 23
Fifth reservation: first part — *re* publicity in connection with advisory opinions 24
Fifth reservation: second part — *re* advisory opinions "touching any dispute or question in which the United States has or claims an interest" . . . 28

III. Proposed Amendments to the Statute 59
Composition of the Court 61
Permanent functioning of the Court 62
Functions and occupations incompatible with membership of the Court 64
Manner of forming the Court 65
Resignation of a judge 66
Filling of occasional vacancies 66
Salaries of judges 67
National judges 68
Advisory opinions 70
Other matters 72
Procedure on amending the Statute 74

Appendix I

States which have Signed the Protocol of the Permanent Court of International Justice (as of October 1, 1929) . . 79
Other States to which the Court is Open 80
Protocol of Signature 81
Optional Clause 82
States which have Signed the Optional Clause (as of October 15, 1929) 82

I. Statute for the Permanent Court of International Justice, showing Proposed Amendments 83

PAGE

II. Report Adopted by the Committee of Jurists on the Question of the Amendment of the Statute, March 19, 1929 104
1. Composition of the Court 106
2. Election of judges 107
3. Resignation of a judge 107
4. Filling of occasional vacancies 107
5. New Article 15 108
6. Functions and occupations incompatible with membership of the Court 108
7. Article 17 109
8. Permanent functioning of the Court . . . 110
9. Manner of forming the Court 111
10. Special chamber for labor cases 112
11. Special chamber for transit and communications cases 113
12. Chamber for summary procedure 114
13. National judges 114
14. Salaries of judges 115
15. Contributions of states not Members of the League of Nations 117
16. Amendment to No. 4 of Article 38 . . . 118
17. Procedure 118
18. Communication of applications 118
19. Direction of the hearing 118
20. Advisory opinions 119

III. Convocation of a Conference: Report and Resolution of the Council of the League of Nations, June 12, 1929 122

IV. Protocol concerning Revision of the Statute, September 14, 1929 124
Annex to Protocol 126

V. The United States and Revision 127
Letter from the President of the Conference of Signatory States to the Assembly of the League of Nations . 127

Appendix II

I. Senate Resolution Giving Advice and Consent of the Senate to the Adhesion by the United States to the Protocol of December 16, 1920, with Reservations, January 27, 1926 128

II. Preliminary Draft of a Protocol Adopted by the Conference of States Signatories, September 23, 1926 . 130

III. Resolution of the Council of the League of Nations, March 9, 1929 133

IV. Elihu Root's Suggested Redraft of Art. 4 of the Protocol of 1926 138

V. Report Adopted by the Committee of Jurists, March 18, 1929 140

PAGE

VI. Action of the Council of the League of Nations: Report and Resolution, June 12, 1929 146

VII. Assent of United States Government 148
1. Aide-mémoire presented on August 14, 1929, by the American Minister at Bern to the Secretary General of the League of Nations 148
2. Statement by the Secretary of State, September 5, 1929 148

VIII. Report of The First Committee to The Assembly of the League of Nations 150

IX. Protocol Regarding the Accession of the United States of America to the Protocol of Signature of the Permanent Court of International Justice opened for Signature at Geneva, September 14, 1929 . . 156

THE UNITED STATES AND THE WORLD COURT

THE PROBLEM OF AMERICAN ACCESSION AND THE REVISION OF THE STATUTE

By Philip C. Jessup

I. FROM SENATE RESERVATIONS TO ROOT PLAN

On January 27, 1926, some three years after President Harding had asked the Senate to advise and consent to the accession by the United States to the Protocol of Signature of the Permanent Court of International Justice, the Senate, by a vote of 77 to 16, adopted a resolution agreeing to that proposal, subject to five reservations and three additional qualifications. This Senatorial action followed a long period of discussion throughout the country and the indorsement of the World Court by two Presidents and by a large majority of the House of Representatives.[1]

One of the qualifications or conditions which the Senate included in its resolution was to the effect that the President, prior to signing the Protocol of Signature of the

[1] For the original submission to the Senate, the Resolution of the House of Representatives of March 3, 1925, and the Senate's resolution of January 27, 1926, see Hudson, *The World Court, 1922–1929*. Revised edition. World Peace Foundation, p. 158–168 (hereinafter cited simply as Hudson, *World Court*). See *infra*, p. 128 [768] for the Senate resolution.

Court, must secure the acceptance of the five reservations through an exchange of notes with the states already signatory to that Protocol. It might well be argued that this provision was an infringement upon the Executive's constitutional power to conduct the foreign relations of the United States, since it prescribed the method of conducting those relations. Nevertheless, Secretary of State Kellogg proceeded to write notes to all of the Signatory States and to the Secretary-General of the League of Nations, stating the terms of the five reservations. This action in itself served to emphasize the two different methods of conducting diplomatic affairs of general interest which are now followed in various parts of the world.[1]

Since the inauguration of the League of Nations, the Members have become accustomed to carrying on matters of common concern by joint conference, whereas the United States is still inclined to follow the ancient method of negotiation through foreign offices and diplomatic representatives. In line with their new, but already well-established practice, and because of their common interest in the matter, the Signatory States were not prepared to accept the Senate's reservations by a mere exchange of notes. On more technical grounds, it was also felt that, since the reservations would effectuate certain amendments in the Statute of the Court, and since this Statute was brought into being by a treaty which had been ratified by the various states, the more appropriate procedure would be to conclude an additional treaty by which the reservations could be given effect and the Statute amended accordingly. Thus, only five states sent unconditional acceptances of the reservations in reply to Secretary Kellogg's note.[2]

[1] This distinction was well pointed out by Elihu Root in his speech of acceptance of the Woodrow Wilson Memorial Award on December 28, 1926; see also *Committee of Jurists on the Statute of the Permanent Court of International Justice. Minutes of the Session held at Geneva, March 11–19, 1929*, p. 16 (C. 166. M. 66. 1929. V. 5). This document is hereinafter cited as *Minutes*.

[2] See Hudson, *op. cit.*, p. 185–186, for a table (taken from the *Fourth Annual Report of the Permanent Court of International Justice*, p. 126 (Series E, No. 4), indicating the replies from the various Governments.

At a meeting of the Council of the League of Nations, held at Geneva on March 18, 1926, Sir Austen Chamberlain (British Empire) suggested the points indicated above, and proposed that the Governments of the Signatory States and the Government of the United States should appoint delegates to attend a conference to be held in Geneva on September 1, 1926, for the purpose of discussing the whole question.[1] Sir Austen Chamberlain also indicated that certain parts of the Senate's reservations were not wholly clear, and that their correct interpretation required discussion with the United States.

The United States was duly invited on March 29, 1926, through a letter from the Secretary-General of the League, to attend the Conference of Signatories.[2] Secretary Kellogg, however, declined the invitation on the ground that he had no authority to vary the procedure laid down by the Senate, and on the further ground that the reservations were "plain and unequivocal." [3]

In spite of this position on the part of the United States, the Signatory States held their conference in Geneva during September, 1926. They were naturally hampered in their deliberations by the absence of an American representative, but they endeavored to ascertain the exact meaning of the reservations by reference to the debates in the Senate. Their conclusions were embodied in a Final Act and a Preliminary Draft of a Protocol. This Final Act and Draft of a Protocol were not communicated to the United States as such but, in accordance with the decision of the Conference, they formed the basis of replies sent by 24 different states in answering Mr. Kellogg's note of March 2, 1926. These replies, based on the conclusions of the conference, indicated that all of the reservations except the latter part of the fifth were acceptable to the other states, although with regard to some provisions it was suggested that the United States would find satis-

[1] See Hudson, *op. cit.*, p. 173, for pertinent text of extract from the Minutes of the Council.

[2] See *ibid.*, p. 172, for text of the invitation.

[3] See *ibid.*, p. 174, and *Minutes*, p. 98, for text of Mr. Kellogg's note.

faction for its desires in action already taken by the Court, and that formal acceptance of parts of the reservations would therefore be unnecessary.

The United States Government took no further official action until February 19, 1929, about two and a half years after it had been advised of the views of the other states. Nevertheless, certain interesting events occurred in the United States prior to that time. On December 7, 1926, Senator Trammell of Florida introduced in the Senate a resolution providing for the rescission of the Senate's resolution of January 27, 1926, on the ground that "a very large majority of the powers signatory to such protocol have not indicated their acceptance of it." This resolution was never even reported out of the Foreign Relations Committee, and on February 9, 1927, its sponsor's motion for consideration on the floor was tabled by a vote of 59 to 10.[1] On February 6, 1928, Senator Gillett introduced a resolution in accordance with which the Senate would respectfully suggest to the President "the advisability of a further exchange of views with the signatory states in order to establish whether the differences between the United States and the signatory states can be satisfactorily adjusted." An agreement was reached to take action on this resolution in the Foreign Relations Committee on December 5, 1928, but some 10 days before that date President Coolidge announced to a group of Senators breakfasting at the White House that he planned to resume negotiations in the Court matter. Senator Gillett accordingly announced that he would let the resolution lie over.[2] Secretary Kellogg's note of February 19, 1929, already referred to, seems to have been the outcome of this presidential declaration.

The Conference of Signatories in September, 1926, had

[1] Sen. Res. 282, 69th Cong., 2d sess., *Cong. Rec.*, Vol. 68, p. 37, 119, 3228, 3327; see Quincy Wright, "The Permanent Court of International Justice: the United States and the Court," *International Conciliation Pamphlet*, No. 232, September, 1927, p. 360 [40].

[2] Sen. Res. 139, 70th Cong., 1st sess. See The American Foundation, *The World Court*, fifth edition, April, 1929, p. 52.

suggested the desirability of a further exchange of views, and Mr. Kellogg's last letter stated that the Government of the United States felt that such an informal exchange of views as was contemplated would "lead to agreement upon some provision which in unobjectionable form would protect the rights and interests of the United States as an adherent to the Court Statute." [1]

Meanwhile certain other pertinent events had occurred. On September 20, 1928, the Assembly of the League adopted a resolution suggesting to the Council that it would be desirable to examine the Statute of the Court with a view to making such amendments as the experience of eight years of operation might indicate were desirable. The resolution pointed out that since a new election of the entire bench of the Court was to be held in September, 1930, in accordance with the Statute, the time was particularly appropriate for such an examination and possible revision. Acting upon this resolution, the Council, on December 13 and 14, 1928, decided to appoint a committee of experts to undertake the work in question. In addition to the other members of the committee, Elihu Root was invited to serve, and he accepted the invitation.[2] The committee members were selected as individual experts and not as governmental representatives, and the committee was accordingly of a character analogous to that which framed the original Statute of the Court in 1920; Mr. Root was also a member of that original committee.

Secretary Kellogg's note of February 19, 1929, was sent out while Mr. Root was en route to Geneva to attend the committee sessions. The note was transmitted to the Secretary-General of the League, as well as to the Signatory States. It thus came before the Council of the League at its meeting in Geneva on March 9, 1929. At that session the Council unanimously, and with a considerable show of friendliness toward the United States, adopted a resolution charging the Committee of Jurists to consider the whole

[1] See Hudson, *op. cit.*, p. 188, 190.

[2] For the Assembly and Council action, see the report of the Committee of Jurists, *infra*, p. 140 [780].

question of the accession of the United States to the Court, in addition to its primary function of considering the revision of the Statute.[1] The members of the Council, in stating their approval of the resolution, referred to the happy circumstance that Mr. Root had accepted the invitation to serve on this committee and that his cooperation might be expected to lead to a satisfactory solution of the outstanding difficulties regarding the accession of the United States to the Court.[2]

Before leaving the United States, Mr. Root had consulted Secretary Kellogg and certain members of the Senate. Although he was going to Geneva as a private citizen to attend a meeting of a committee which at that time was charged only with the task of amendments to the Statute and not with the consideration of American accession, it was quite natural, in view of his connection with the earlier history of the Court and his previous service as Secretary of State and as Senator, that the question of his own country's participation in the work of the Court should be prominent in his mind. He had already roughly formulated a plan for the solution of the existing difficulty and this plan he discussed with the official persons whom he saw in Washington. The plan seemed to them acceptable in principle, but no definitive text was in existence at that time to which they could give final approval. Mr. Root arrived in Geneva several days before the committee began its sessions, but while the Council of the League was meeting. In informal conversations with various statesmen who were serving as members of the Council, the question of American accession was discussed. By this time Mr. Root's plan had taken definite written form and the various persons consulted seemed to find it acceptable in principle.

Accordingly, when the committee met on March 11, the chairman immediately asked Mr. Root to submit to the

[1] See Hudson, *op. cit.*, p. 191, for the text of the Council's resolution, reprinting League of Nations, *Official Journal*, X, p. 564.

[2] *Official Journal*, X, p. 564.

committee the informal project which he had prepared.[1] This draft project immediately became the basis for discussion in the committee. It dealt only with the chief controversial point, namely, the second part of the fifth reservation. As a result of the discussion, four other members of the committee, M. Fromageot, Sir Cecil Hurst, M. Pilotti and M. Politis, submitted redrafts.[2] Other members of the committee made further oral suggestions. Mr. Root's original draft had been purely temporary in its form and was designed to explain the proposed arrangement without attempting to give it final form. Accordingly, to Mr. Root and to a majority of the other members of the committee, the redraft prepared by Sir Cecil Hurst appeared to be the most satisfactory basis for further discussion and it was accepted as such. The chairman appointed a subcommittee consisting of himself, Mr. Root, Sir Cecil Hurst and M. Politis, for the preliminary study of this draft. For this subcommittee, M. Politis reported a substantial agreement on the draft, subject to certain further modifications.[3] The matter was then discussed further in full committee and then referred to Sir Cecil Hurst and to Mr. Root for final redaction.[4] The committee then turned its attention to the other item on its agenda, that is, the revision of the Statute, and it was not until the 12th session, on the 18th of March, that the revised Root draft was again considered by the full committee.[5] After some discussion, the revised draft was unanimously adopted, together with the accompanying report of Sir Cecil Hurst. It should be noted, however, that the Draft Protocol which was thus finally accepted dealt with the

[1] The committee was composed of the following: Vittorio Scialoja, chairman; W. J. M. van Eysinga, vice-chairman; Henri Fromageot, Friedrich Gaus, Sir Cecil J. V. Hurst, Nobumi Ito, Massimo Pilotti, Nicolas Politis, Arnold Raestad, Elihu Root, Szymon Rundstein and Francisco J. Urrutia. The committee was also assisted by Stefan Osusky, chairman of the Supervisory Commission, and by Dionisio Anzilotti and Max Huber, the President and Vice-President of the Court.

[2] Root, *Minutes*, p. 9, and also Appendix, *infra*, p. 138 [778]; *Minutes*, Fromageot, p. 81; Hurst, p. 16; Pilotti, p. 10; Politis, p. 21.

[3] See *Minutes*, p. 22.

[4] *Loc. cit.*

[5] See *Minutes*, p. 76.

whole question of American accession and not solely with the latter part of the fifth reservation as did the original draft. This development was in accordance with Mr. Root's original plan, and followed upon his suggestion. The final Draft Protocol is based upon the Preliminary Draft of a Protocol which was incorporated in the Final Act of the Conference of Signatories of September, 1926.

According to the report of Sir Cecil Hurst, as adopted by the committee, this Draft Protocol was to be transmitted to the Council, which had appointed the committee. The report suggested to the Council that, if it approved the protocol, the text should be communicated to the Government of the United States by the Secretary-General of the League as a reply to Secretary Kellogg's note of February 19, 1929. It was further suggested that it should at the same time be communicated to all the Signatory States. Furthermore, since the proposal for the appointment of the committee originated in the Assembly, it was suggested that the Draft Protocol should also be communicated to that body for such action as might be deemed appropriate. Since the Draft Protocol would eventually take the form of a treaty requiring the ratification of the United States and of the various states which had already adhered to the Court, it was suggested that a further special conference might be called for the fall of 1929 in order that delegates of the various states might affix their signatures at that time.[1]

Similar action was taken with regard to the proposed amendments to the Statute.[2]

The reports on both subjects were transmitted to the Council and considered by it at its session in Madrid on June 11. M. Scialoja of Italy, who had presided over the Committee of Jurists, acted as rapporteur for the Council and submitted separate reports and draft resolutions on the subject of the accession of the United States and on the amendments to the Statute.

[1] See the Committee Report, p. 144 [784].

[2] These proposals will be considered in detail later, *infra*, p. 59 [699].

The report on the accession of the United States[1] merely follows that of Sir Cecil Hurst, pointing out that immediate transmission to the Governments of the United States and of the several Signatory States would afford them time for study of the question before the Assembly was called upon to pronounce upon the matter at its next session in September. The draft resolution accordingly provides that the Council adopts the report and Draft Protocol submitted by the Committee of Jurists and instructs the Secretary-General to communicate them to the United States in reply to Mr. Kellogg's note of February 19, 1929, and to the Signatory States. The resolution further instructs the Secretary-General to transmit these documents to the Assembly and to place the question on its agenda since the Assembly, like the Council, is "a body whose procedure in regard to the method of seeking advisory opinions from the Court would be affected by the adoption" of the proposed protocol. Since there has hitherto been some criticism in the United States of action by the League with reference to the Court, it seems desirable to call special attention to this sound reason for referring to the Assembly the protocol dealing with American accession.

M. Scialoja's report on amendments to the Statute also follows closely that of the Committee of Jurists, but suggests a somewhat different procedure. Sir Cecil Hurst's report on the accession of the United States had noted the possibility of the Council's convening a second conference of the Signatory States; the Committee of Jurists' report on amendments to the Statute had not included such a suggestion. Nevertheless, M. Scialoja recommended to the Council the calling of such a conference to consider the amendments to the Statute, but not to discuss the protocol for American accession. M. Scialoja felt that, though the Assembly had asked that proposals be submitted to it, the Council would be correctly interpreting the Assembly's wishes if it convoked a conference of the

[1] League of Nations Document, C. 275. 1929. V; Appendix, p. 146 [786].

states parties to the Statute to meet simultaneously with the Assembly. The two bodies might then consult together as necessary.

At the same time the Supervisory Commission might be asked to examine and report to the Assembly on the financial proposals contained in the committee's report. M. Osusky, chairman of the Supervisory Commission, had assisted the Committee of Jurists in an advisory capacity. It will be recalled that under Art. 32 of the Court Statute, it is the Assembly which, on the proposal of the Court, fixes the salaries, allowances and pensions of the judges. M. Scialoja's draft resolution contains provisions appropriate to the ends stated.

It may be noted that the Secretary-General was instructed to communicate the report of the Committee of Jurists to the Members of the League and to the states mentioned in the Annex to the Covenant — which includes the United States — but that the conference was to be only of "states parties to the Statute of the Permanent Court of International Justice." These resolutions were adopted by the Council at its session on June 12.[1]

On August 31, during its 56th session, the Council adopted a resolution inviting the Conference of Signatory States to consider the subject of the accession of the United States in addition to its consideration of the proposed Amendments to the Statute.[2] This action of the Council was subsequent to, and probably the result of, a communication from the American Government which will be described shortly. On September 3 the Council's resolution was considered by the First Committee of the Assembly, which reached the conclusion that this question should be considered by the conference before it was taken up by the Assembly. This procedure was unanimously adopted by the Assembly on the same day.[3]

The conference began its sessions on September 4 and

[1] League Doc. C. 274. 1929. V; Appendix, p. 122 [762].

[2] League Doc. A. 28. 1929. V. 14.

[3] *Verbatim Record of the Tenth Ordinary Session of the Assembly*, Third Plenary Meeting, September 3, p. 1.

appointed as Chairman Jonkheer van Eysinga of Holland, who had occupied a like position in the 1926 conference and who had served as vice-chairman of the Committee of Jurists in March, 1929. At its second meeting, on the afternoon of the same day, the conference unanimously adopted the draft protocol for the accession of the United States which had been prepared by the Committee of Jurists.[1] The draft protocol was accordingly referred by the conference to the Assembly, with the recommendation that it be referred to the First Committee;[2] this recommendation was followed by the Assembly. At the private first meeting of the conference, held in the morning, the Secretary-General of the League informed the delegates that he was reliably informed that the draft protocol was considered satisfactory by the Secretary of State of the United States, but that no official notice on the matter could yet be given out. At the public session in the afternoon, Sir Cecil Hurst, the British delegate to the conference, referred to "the very gratifying communication" made in the morning, which in his opinion made it clear that "the Government most interested in the question is prepared to accept the scheme as it is laid before this conference." [3] The official confirmation of this American approval was made by the Department of State on the same day. It was announced that on August 14 Hugh R. Wilson, American minister to Switzerland, had by instruction from Washington delivered an *aide mémoire* to the Secretary-General. This communication acknowledged the transmission of various documents relating to the draft protocol for American accession. It then proceeded with the statement "that after careful examination the Secretary of State considers that the said draft protocol would effectively meet the objections represented in the reservations of the United States and would constitute a satis-

[1] *Journal of the Tenth Assembly*, September 5, 1929, No. 4, p. 47; text of protocol in Appendix, p. 156 [796].

[2] *Report of First Committee*, League Doc. A. 49. 1929. V. 15; *infra*, p. 150 [790].

[3] New York *Times*, September 5, 1929, page 1.

factory basis for the adherence of the United States to the protocol and statute of the Permanent Court of International Justice, dated December 16, 1920, and that after the draft protocol has been accepted by the States Signatory to the Protocol of Signature and the Statute of the Permanent Court, he will request the President of the United States for the requisite authority to sign and will recommend that it be submitted to the Senate for its consent to ratification." [1]

The Protocol for American Accession was approved without any dissenting voice on September 14 by the Assembly, and was promptly signed by the following 49 states:

Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Estonia, Finland, France, Germany, Great Britain, Greece, Guatemala, Haiti, Hungary, India, Irish Free State, Italy, Japan, Latvia, Liberia, Luxemburg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Rumania, Salvador, Serb-Croat-Slovene State, Siam, South Africa, Spain, Sweden, Switzerland, Uruguay, Venezuela.

The Acceptance of the Senate Reservations

Having noted the various events which have transpired since the Senate adopted its resolution on January 27, 1926, it may be convenient to consider *seriatim* and in detail the Senate reservations and the various steps which have been taken with regard to each one. This would seem to be particularly desirable, since the so-called Root Plan or Draft Protocol recommended by the Committee of Jurists opens with a statement that "the states signatories of the said protocol [of the Permanent Court of International Justice] accept the special conditions attached by the United States in the five reservations mentioned above

[1] Department of State, Press Release, September 5, 1929; *infra*, p. 148 [788].

[in the preamble], to its adherence to the said protocol upon the terms and conditions set out in the following articles." [1] The question in the United States, therefore, is whether the terms and conditions laid down by the Senate have been accepted by the states signatory to the Court Protocol.[2] It would seem that the answer to this question can be most easily ascertained by such a separate examination of the reservations.[3]

[1] Art. 1 of the Draft Protocol, *infra*, p. 156 [796].

[2] As noted *supra*, p. 11 [651], Secretary of State Stimson has already indicated his opinion that this question should be answered in the affirmative.

[3] This method has been followed by Professor Hudson, "The American Reservations and the Permanent Court of International Justice," 22 *American Journal of International Law* (1928), p. 1 *et seq.* (hereinafter cited as " Hudson, *American Reservations.*")

II. NEGOTIATIONS ON THE RESERVATIONS

First Reservation: "That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the treaty of Versailles."

It would seem to be a self-evident proposition that acceptance of one treaty — the protocol of the Statute of the Court — would not include acceptance of another treaty — the Covenant of the League (Art. 14 of which it fulfils) and other parts of the treaty of Versailles. Nevertheless, this reservation seems to have been designed to make assurance doubly sure, and to satisfy political exigencies.

When the Conference of Signatory States met in Geneva in 1926, this reservation was naturally the first item considered. Henri Rolin of Belgium, a very astute jurist, declared that this reservation "merely expressed the legal situation." The president of the conference, M. van Eysinga of the Netherlands, "thought that all the members of the conference would share this opinion. In these circumstances, the conference could but accept the first reservation." This proposal was unanimously adopted without further discussion.[1]

The final conclusions of the conference, as already noted, were embodied in a Final Act and a Preliminary Draft of a Protocol. As to the first reservation, the Final Act declared as follows:[2]

> It may be agreed that the adherence of the United States to the Protocol of December 16, 1920, and the Statute of the Perma-

[1] *Minutes of the Conference of States Signatories of the Protocol of Signature of the Statute of the Permanent Court of International Justice* (League of Nations Document, 1926. V. 26), p. 11, hereinafter cited as *Minutes of the Conference;* see also Hudson, *op. cit.*, p. 3.

[2] *Minutes of the Conference*, p. 77; Hudson, *World Court*, p. 178.

nent Court of International Justice annexed thereto shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the treaty of peace of Versailles of June 28, 1919.

Since this is a general matter and involves no change in the Statute or operation of the Court, it was not necessary to include any reference to it in the Draft Protocol. Secretary Kellogg's note of February 19, 1929, notes that this reservation was accepted.[1]

In view of these facts, the Committee of Jurists which met in Geneva in March, 1929, did not discuss this reservation. The report which it adopted declares that

> No difficulty has at any time been felt with regard to the acceptance of the conditions laid down by the United States

in the first four reservations.[2] Nor is this reservation expressly mentioned in the Draft Protocol which the same committee adopted on the basis of Mr. Root's suggestions. It will be convenient here to pause to consider the situation under this protocol of an omission of such express acceptance.

In drafting the text which was eventually used in drawing up the protocol just referred to, Mr. Root had taken as a basis the Final Act and Preliminary Draft of a Protocol adopted by the 1926 Conference of Signatories. In those documents he found the acceptance of the first reservation but no express mention of it in the protocol itself. Accordingly it seemed useless to include it in the new protocol. But some phraseology had to be adopted to make clear the implicit acceptance of the reservation. This is accomplished by the language of the preamble and of Art. 1, which is as follows:[3]

[1] Hudson, *op. cit.*, p. 188.

[2] *Ibid.*, p. 196.

[3] *Ibid.*, p. 192; italics inserted.

> The states signatories of the Protocol of the Statute of the Permanent Court of International Justice, dated December 20, 1920, and the United States of America, through the undersigned duly authorized representatives, have mutually agreed upon the following provisions regarding the adherence of the United States of America to the said Protocol *subject to the five reservations formulated by the United States in the resolutions adopted by the Senate on January 27, 1926.*
>
> Art. 1. The states signatories of the said Protocol *accept the special conditions attached by the United States in the five reservations* mentioned above to its adherence to the said Protocol *upon the terms and conditions set out in the following articles.*

The Draft Protocol prepared by Mr. Root and adopted by the committee thus takes the complete acceptance of the five reservations as its basic point of departure. It is only where the protocol specifies "terms or conditions" that there is any variation in this acceptance. Since the protocol contains no "terms or conditions" relative to the first reservation, its acceptance is unconditional and absolute.

> **Second Reservation: "That the United States shall be permitted to participate through representatives designated for the purpose and upon an equality with the other states, Members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice or for the filling of vacancies."**

In considering this reservation one should keep in mind that the judges and deputy-judges are elected from a list of nominees, by the Council and Assembly sitting simultaneously but independently. Art. 4 of the Court Statute provides that the "members of the Court shall be elected by the Assembly and by the Council" and Art. 10 provides

that "those candidates who obtain an absolute majority of votes in the Assembly and in the Council shall be considered as elected."

When this reservation was discussed by the 1926 Conference of Signatories, the President pointed out that it might be said to constitute an amendment to the Statute. The Statute provides that candidates receiving a majority of votes of the Members of the Council and Assembly would be elected; under the second reservation it would be necessary to count also the vote of the United States. The conference, however, fully agreed that this claim of the United States was entirely reasonable and acceptable.[1] A suggestion was made that the desired object could be accomplished by the Council and Assembly inviting the United States to join them for the purposes of election, but this was not the prevailing view of the conference. The drafting committee appointed by the conference to formulate its results decided upon a simple acceptance of the second reservation and the Final Act accordingly contains the following paragraph:[2]

> It may be agreed that the United States may participate through representatives designated for the purpose and upon an equality with the other states, Members of the League of Nations, represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice, or for the filling of vacancies.

In incorporating this agreement into the protocol, however, it was thought best to specify that the vote of the United States should "be counted in determining the absolute majority of votes required by the Statute" in order that the above-mentioned amendment to the Statute might be clearly effected.[3] The protocol thus contains this express direction to the tellers who count the votes

[1] *Minutes of the Conference*, p. 11, 12, 46, 47.

[2] *Ibid.*, p. 77; Hudson, *op. cit.*, p. 178.

[3] *Minutes of the Conference*, p. 81; Hudson, *op. cit.*, p. 181; see also Hudson, *American Reservations*, p. 4.

instead of leaving it to them to make the necessary deduction from the general language. This extra measure of care may also be attributed to the fact that Europeans are always careful to note the difference between a "majority" (plurality) and an "absolute majority."

As in the case of the first reservation, Mr. Kellogg's letter of February 19, 1929, notes that the second reservation had also been accepted.

For the same reasons which influenced the Conference of Signatories, Mr. Root and the Committee of Jurists of which he was a member, included in the new protocol the same provision and in the same words. The fact that an amendment to the Statute was involved and that an explanatory sentence was added in the interests of clarification made it inappropriate to leave the acceptance of this reservation to be implied from the blanket acceptance clause. The "terms and conditions" in this case, however, are only such as seemed necessary to give effect to the Senate's intention. The final language in which the second reservation is accepted is therefore as follows: [1]

> Art. 2. The United States shall be permitted to participate, through representatives designated for the purpose and upon an equality with the signatory states, Members of the League of Nations, represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of Judges or Deputy Judges of the Permanent Court of International Justice, provided for in the Statute of the Court. The vote of the United States shall be counted in determining the absolute majority of votes required by the Statute.

Third Reservation: "That the United States will pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States."

Art. 33 of the Court Statute provides that "the expenses of the Court shall be borne by the League of Nations, in

[1] Hudson, *World Court*, p. 192.

such manner as shall be decided by the Assembly upon the proposal of the Council." [1] The Senate did not wish to have the United States' share of the contributions fixed by the League bodies and therefore left the amount to be determined by Congress. This arrangement met with no objection from the Signatory States, who seemed to rely fully on the fairness of the United States to contribute a just proportion.[2] At the 1926 Conference of Signatories the president remarked "that this paragraph, which could hardly be called a reservation, since it consisted in an offer to participate in the expenses of the Court, gave rise to no objection." [3] This was unanimously agreed to without any discussion. The Final Act accordingly says: [4]

> It may be agreed that the United States pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

Since this reservation involves no amendment to the Statute, no express reference was made to it in the 1926 Preliminary Draft of a Protocol or in the committee's Draft Protocol of March, 1929. Its specific acceptance, accordingly, like that of the first reservation, is implied from the general acceptance. In common with the first two reservations, this reservation also was mentioned in Mr. Kellogg's note of February 19, 1929, as having been accepted.

Fourth Reservation — First Part: "That the United States may at any time withdraw its adherence to the said Protocol . . ."

The Statute of the Court contains no provision for the withdrawal of any state which has signed the protocol of

[1] *Infra*, p. 96 [736].

[2] The American quota would probably be the same as that of Great Britain, which in 1927 amounted to approximately $42,000; see Hudson, *American Reservations*, p. 5. However, it is noted that the Inter-parliamentary Union in adopting the League basis for allocation of expenses to its own budget assigns the United States a larger quota than Great Britain.

[3] *Minutes of the Conference*, p. 12.

[4] *Ibid.*, p. 77; Hudson, *World Court*, p. 178.

December 16, 1920, or acceded to it. It was the belief of some persons that a right of denunciation or withdrawal was implicit in every international convention, but this view was not universally held.[1] Regardless of the legal aspects of the matter, the conference had no objection to granting this right of withdrawal to the United States. It was felt, however, that if this right should be exercised at some future time a somewhat anomalous situation would result. The part of the fourth reservation now under consideration was merely one of several conditions under which the United States proposed to accede. If the arrangement did not subsequently prove to be satisfactory to the United States that state could withdraw, but it would leave the other states with an instrument whose organization had been somewhat altered in order to meet the wishes of the American Government. The Signatory States had in mind especially the second part of the fourth reservation, which provides that the Statute can not be amended without the consent of the United States, and the fifth reservation which deals with advisory opinions. It was accordingly considered only fair that the Signatory States should likewise have a power of withdrawal — not of withdrawal from the Court, but from the acceptance of the special conditions of the United States. Differently stated, the Signatory States felt that if the United States was to be given the privilege of restoring the *status quo ante*, they themselves should be accorded a like privilege. The Drafting Committee of the conference in giving expression to this idea stated that it had "been anxious to invest the exercise of such a right [of withdrawal by the Signatory States] with the character of a collective decision taken by a sufficiently large majority to insure that it is inspired exclusively by objective considerations arising from the discovery of some serious practical difficulty." [2] The Final Act accordingly contains the following statement on this point: [3]

[1] *Minutes of the Conference*, p. 12–13, 15 *ff*.

[2] *Ibid.*, p. 53; see also discussion of the Drafting Committee's report, *ibid.*, p. 55 *ff*.

[3] *Ibid.*, p. 77; Hudson, *op. cit.*, p. 178–179.

It may be agreed that the United States may at any time withdraw its adherence to the Protocol of December 16, 1920.

In order to assure equality of treatment, it seems natural that the signatory states, acting together and by not less than a majority of two-thirds, should possess the corresponding right to withdraw their acceptance of the special conditions attached by the United States to its adherence to the said Protocol in the second part of the fourth reservation and in the fifth reservation. In this way the *status quo ante* could be re-established if it were found that the arrangement agreed upon was not yielding satisfactory results.

It is to be hoped, nevertheless, that no such withdrawal will be made without an attempt by a previous exchange of views to solve any difficulties which may arise.

Although this provision was not considered as an amendment to the Statute,[1] the fact that it introduced a new element and established a method of procedure made it appropriate to include it in the protocol. The article in the protocol dealing with this matter is number 7, and reads as follows:[2]

> The United States may at any time notify the Secretary-General of the League of Nations that it withdraws its adherence to the Protocol of December 16, 1920. The Secretary-General shall immediately communicate this notification to all the other states signatories of the Protocol.
>
> In such case the present Protocol shall cease to be in force as from the receipt by the Secretary-General of the notification by the United States.
>
> On their part, each of the contracting states may at any time notify the Secretary-General of the League of Nations that it desires to withdraw its acceptance of the special conditions attached by the United States to its adherence to the Protocol of December 16, 1920, in the second part of its fourth reservation and in its fifth reservation. The Secretary-General shall immediately give communication of this notification to each of the states signatories of the present

[1] See Hudson, *American Reservations*, p. 5.

[2] *Minutes of the Conference*, p. 83; *infra*, p. 158 [798]. The text is Art. 8 of the Draft Protocol of the Committee of Jurists.

> Protocol. The present Protocol shall be considered as ceasing to be in force if and when, within one year from the receipt of the said notification, not less than two-thirds of the contracting states other than the United States shall have notified the Secretary-General of the League of Nations that they desire to withdraw the above-mentioned acceptance.

In his note of February 19, 1929, Mr. Kellogg included the fourth reservation among those which had been accepted. The Committee of Jurists in 1929 felt no need for discussing this reservation and in the Draft Protocol which it adopted the text of the 1926 draft is repeated *in ipsis verbis*.

It will be noted that the United States is thus accorded a privileged position in that it may effect its withdrawal by a simple notice to the Secretary-General of the League, with whom the ratifications of the Protocol of Signature are deposited. On the other hand, the other states must secure a two-thirds majority in order to bring about a similar result. It should be further pointed out that, even if the Signatory States had flatly accepted the first part of the fourth reservation, it would have been necessary subsequently to make some such arrangement as this in order to provide an appropriate method by which the withdrawal of the United States could be brought about. In concluding, therefore, the consideration of the first part of the fourth reservation it can be said that the "terms and conditions" on which this reservation is accepted can be stated as follows:

(1) The withdrawal of the United States is to be accomplished by the simple and logical method of notifying the Secretary-General of the League;

(2) The United States concedes to the other states the reciprocal right of withdrawal.

This second point seems eminently fair and one can not see how objection could be raised to it in the United States. On the other hand, it must be admitted that it does intro-

duce a new element which might properly be referred to the Senate for its approval.

Fourth Reservation — Second Part: " . . . the Statute for the Permanent Court of International Justice adjoined to the Protocol shall not be amended without the consent of the United States."

The Statute of the Court itself contains no provision for its amendment, but it seems to be an established rule of international law that no multipartite treaty can be amended without the consent of all parties thereto. This was the point of view expressed by a number of the members of the 1926 Conference of Signatories.[1] The Drafting Committee was of the opinion that all could agree that, "the Statute having been approved in 1920 by a unanimous agreement of the signatory states," it could be "only susceptible of modification by another unanimous agreement." [2] The committee accordingly in the Final Act states that [3]

> It may be agreed that the Statute of the Permanent Court of International Justice annexed to the Protocol of December 16, 1920, shall not be amended without the consent of the United States,

but in the protocol it gave expression to the general rule just mentioned by providing that [4]

> Art. 2. No amendment of the Statute annexed to the Protocol of December 16, 1920, may be made without the consent of all the contracting states.

As already noted, Mr. Kellogg in his note of February 19, 1929, acknowledged that this reservation had been accepted. The Committee of Jurists in March, 1929, saw

[1] See, for example, the views of M. Dinichert, *Minutes of the Conference*, p. 15; of the President, *ibid.*; and of M. Rolin, *ibid.*, p. 18.

[2] *Ibid.*, p. 53.

[3] *Ibid.*, p. 77; Hudson, *World Court*, p. 179.

[4] *Minutes of the Conference*, p. 81; *infra*, p. 130 [770].

no reason to alter this conclusion, but in the interest of simplification a slightly different phraseology was adopted, so that the final acceptance of this second half of the fourth reservation reads as follows: [1]

> Art. 3. No amendment of the Statute of the Court may be made without the consent of all the contracting states.

While it is true that the "terms and conditions" on which this reservation is accepted consist in requesting that the United States again accord a reciprocal right to the other parties, it can scarcely be maintained that any new element is thus introduced, since the pre-existing rule of international law made the requirement of unanimity for such amendments implicit in the treaty.[2]

Fifth Reservation — First Part: "That the Court shall not render any advisory opinion except publicly, after due notice to all states adhering to the Court and to all interested states, and after public hearing or opportunity for hearing given to any state concerned. . . ."

Both parts of the fifth reservation deal with advisory opinions, which have formed the center of vigorous discussion in the United States. So much has been written on this subject that it scarcely seems necessary at this time to review anew the entire controversy, but certain aspects of it may be brought to mind.[3]

The Statute of the Court itself does not provide for the rendering of advisory opinions, but its Art. 36 says that the Court has jurisdiction in "all matters specially provided for in treaties and conventions in force." [4] One of the con-

[1] *Infra*, p. 156 [796].

[2] See Hudson, *American Reservations*, p. 5–6, especially note 18, p. 6, and his reference to Professor Quincy Wright's article in 21 *American Journal of International Law*, p. 13.

[3] On advisory opinions in general, see Hudson, "The Advisory Opinions of the Permanent Court of International Justice," *International Conciliation*, November, 1925, No. 214.

[4] *Infra*, p. 96 [736].

ventions in force at the time was the Covenant of the League of Nations, Art. 14, which provides that "the Court may also give an advisory opinion upon any dispute or question referred to it by the Council or Assembly." Many persons in the United States feared that this phase of the Court's jurisdiction was incompatible with its functions as a judicial body, and they feared that the Court might deteriorate into a secret adviser of the League. The Court itself soon took steps which should have dispelled this fear. In the rules which it adopted on March 24, 1922, it provided in Art. 73 that when a request for an advisory opinion came to the Court the Registrar should immediately notify the Members of the League, the states mentioned in the Annex to the Covenant and any "international organizations which are likely to be able to furnish information on the question." Art. 74 of the rules further provided that advisory opinions should be printed and published.

On July 31, 1926, just about six months after the Senate passed its resolution containing the five reservations, the Court revised these rules in a way which brings their provisions into full accord with the first part of the fifth reservation.[1] The revision of Art. 73 requires notice to be given to a broader category of states which includes Members of the League, states "admitted to appear before the Court" and international organizations considered likely to be able to furnish information. The notice must now also contain a statement that the Court "will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question." There is further provision for comments by any of the parties notified upon the statements submitted by other parties.[2]

The previous provision in Art. 74 relating to the publication of advisory opinions is amplified by the require-

[1] The original rules are printed in Publications of the Court, Series D, No. 1, p. 66 *ff.*, and the revised rules in *ibid.*, p. 33 *ff.*, and in Hudson, *World Court*, p. 121 *ff.*

[2] Hudson, *op. cit.*, p. 137–138; *infra*, p. 102 [742].

ment that "advisory opinions shall be read in open Court, notice having been given to the Secretary-General of the League of Nations and to the representatives of states, of Members of the League and of international organizations immediately concerned." [1]

These new rules were indeed largely clarifications of the current practice of the tribunal, but they constitute the most complete possible arrangements for carrying into effect the first part of the fifth reservation.

This fact was naturally noted by the Conference of Signatories in 1926. The president at once pointed them out and stated that he assumed they would satisfy the desiderata named by the Senate.[2] With practically no discussion, the conference noted its acceptance of the first part of the fifth reservation. At a subsequent session of the committee, however, the president, with what has proved to be an accurate foresight, said that, while it was true that the rules met the desires of the United States regarding publicity, yet the United States might say "that the Court might alter its Rules any day." [3] The drafting committee had this suggestion in mind in preparing the Final Act, the appropriate paragraph of which is couched in the following terms: [4]

> In the matter of advisory opinions, and in the first place as regards the first part of the fifth reservation, the Government of the United States will, no doubt, have become aware, since the dispatch of its letters to the various Governments, of the provisions of Arts. 73 and 74 of the Rules of Court as amended by the Court on July 31, 1926 (Annex A). It is believed that these provisions are such as to give satisfaction to the United States, having been made by the Court in exercise of its powers under Art. 30 of the Statute. Moreover, the signatory states might study with the United States the possible incorporation of certain stipulations of principle on this subject in a protocol of execution

[1] Hudson, *op. cit.*, p. 138, and *infra*, p. 103 [743].

[2] *Minutes of the Conference*, p. 19.

[3] *Ibid.*, p. 46; see also other views expressed by the president on p. 50.

[4] *Ibid.*, p. 77; Hudson, *op. cit.*, p. 179.

such as is set forth hereafter (Annex B), notably as regards the rendering of advisory opinions in public.

Apparently the conference believed that it would be unnecessary to insert in the protocol detailed provisions on this point, and they accordingly contented themselves with the brief statement of Art. 3 that [1]

> The Court shall render advisory opinions in public session.

As the president of the 1926 conference had foreseen, the United States was not content with the provisions in the Rules of Court. Mr. Kellogg pointed out in his note of February 19, 1929, that the rules of the Court are "subject to change at any time," and that for this reason the provision in the protocol "did not furnish adequate protection to the United States." [2]

This was the situation which had to be met by Mr. Root and the Committee of Jurists in March, 1929. It was evident from the proceedings of the 1926 conference that there was no basic objection to the first part of the fifth reservation, and it could therefore be assumed that an agreement on phraseology could easily be reached. In his original draft proposal Mr. Root suggested the following language which would serve to cover the question of notice and at the same time to perpetuate the practical procedure laid down by the amended Art. 73 of the rules of the Court: [3]

> Whenever a request for an advisory opinion comes to the Court, the Registrar shall notify the United States thereof, among other states mentioned in the now existing Art. 73 of

[1] *Minutes of the Conference*, p. 83; *infra*, p. 130 [770]. The members of the conference do not seem to have considered at any length the point made by Professor Hudson that it would be an unsound principle to deprive the Court of its power to make rules governing its own procedure by incorporating stipulations on these points in the treaty itself. While agreeing with the principle advocated by Professor Hudson, it may be noted that the Statute already contains 26 articles (Arts. 39–64) regulating the Court's procedure. For these views of Professor Hudson, see his *American Reservations*, p. 7–9.

[2] Hudson, *World Court*, p. 190.

[3] *Minutes*, p. 9.

> the Rules of Court, stating a reasonable time-limit fixed by the President, within which a written statement by the United States concerning the request will be received.

In preparing the final draft of the protocol which was ultimately adopted by the Committee of Jurists the provision just quoted was retained in Art. 5, but in addition there was inserted the following Art. 4: [1]

> The Court shall render advisory opinions in public session after notice and opportunity for hearing substantially as provided in the now existing Arts. 73 and 74 of the Rules of Court.

It seems beyond question that these provisions constitute a complete acceptance of the first part of the fifth reservation. They have the distinct advantage over a simple statement of acceptance in that, by their reference to the existing Rules of Court, they make immediately available an exact procedure by which the reservation can be made practically useful.

The perpetuation of this provision in treaty form would be an excellent thing for the Court, preventing permanently any deviation from the essentially judicial nature of its conduct which it has hitherto so wisely and courageously followed. The Senate will have made a distinct contribution to the cause of international justice by accomplishing this result.

Fifth Reservation — Second Part: ". . . nor shall it [the Court], without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest."

It is this reservation which has caused the greatest difficulty because its terms are open to several interpretations. Some of the possible interpretations would result

[1] *Minutes*, p. 132; *infra*, p. 156 [796].

in the conferring of powers the exercise of which, it was feared, might destroy the utility of advisory opinions as an instrument for the pacific settlement of international disputes. This view was expressed by Sir Austen Chamberlain in the meeting of the Council on March 18, 1926, at which it was decided to convoke the 1926 Conference of Signatories. The British foreign minister as his country's representative in the Council declared: [1]

> The terms of the fifth paragraph of the Senate resolution necessitate further examination before they could safely be accepted by the states which are parties to the Protocol of 1920. This paragraph is capable of bearing an interpretation which would hamper the work of the Council and prejudice the rights of Members of the League, but it is not clear that it was intended to bear any such meaning. The correct interpretation of this paragraph of the resolution should be the subject of discussion and agreement with the United States Government.

But since the United States did not accept the invitation to attend the conference, no discussion and consequently no agreement resulted. The members of the conference were forced to rely largely on the Senate debates and these afford conflicting points of view.

Before proceeding further, three types of advisory opinions may be suggested. The first is the type of secret confidential advice from the Court to the Council or Assembly which was regarded with particular repugnance in the United States Senate. It may safely be said that this type of advisory opinion does not exist and never has existed. The rules of the Court from the very first have made it impossible and under the protocol adopted by the Committee of Jurists this result is made certain and permanent. If the Council of the League desires this type of advice it must seek it from an *ad hoc* committee of jurists as has been done on several occasions.[2]

The second type of advisory opinions is that in which

[1] Hudson, *op. cit.*, p. 173.

[2] See the remarks of President Scialoja in the Committee of Jurists, *Minutes*, p. 12.

the Council [1] acts as a transmitting agency or letter box, although even in such cases it preserves its liberty of action.[2] This is the type exemplified in Advisory Opinions 1, 2, 3 and 13, concerning the functions and competence of the International Labor Organization. When a problem arises in that organization it requests the Council to seek from the Court an advisory opinion interpreting the treaty provisions under which the Labor Organization operates. The same situation exists with regard to other organizations.

The third type of advisory opinion is undoubtedly the most important and it is the one which is usually in mind when this device is referred to as a method of pacific settlement of international disputes. In a sense these advisory opinions are a form of international arbitration although, unlike arbitral awards, they do not bind the parties to a dispute. The situation described is evident from a consideration of the Fourth Advisory Opinion.[3] France adopted certain nationality decrees for Tunis and Morocco which Great Britain claimed unlawfully infringed upon the rights of British subjects in those protected areas by compelling them to serve in the French army. The British Government offered to arbitrate the question as to France's right to enforce such decrees. The French Government replied that nationality laws were of solely domestic concern and that arbitration was impossible. Great Britain accordingly appealed to the Council of the League. It was suggested that the Court should be asked to render an advisory opinion upon the question whether the matter in issue was solely a subject of domestic jurisdiction. Although the French Government had been unwilling to agree to arbitration, it was content to raise no objection in the Council against the reference of this question to the Court. The Court expressed the opinion that while, in

[1] Although both the Council and Assembly have the privilege of requesting advisory opinions, the latter body has not yet exercised that privilege and in general hereafter only the Council will be referred to.

[2] *Minutes*, p. 76.

[3] Publications of the Court, Series B, No. 4, summarized in Hudson, *op. cit.*, p. 60 *ff.*

general, nationality questions came within the category of domestic questions, this was not the case when the matter was covered by an international treaty. As a result of this opinion, the two countries effected an amicable adjustment of their differences.[1]

In numerous other cases also, it has been found that, when national susceptibilities and political complications prevent a direct submission to an international judicial tribunal, the parties are willing that some legal point in the dispute should be submitted to the Court for an advisory opinion. It must be borne in mind that while the law's delays are the object of complaint in the private law field, internationally a delay is often the means of preventing war. This is the basic theory of the "Bryan peace treaties," which provide a "cooling-off" period. But the delay must be accomplished by some step toward solution since, if nothing is done, national feelings grow steadily more intense until the war-fever is fully aroused.

It was these factors which the statesmen at Geneva had in mind when considering the fifth reservation. There being no way of determining how or when the consent of the United States would be manifested for the requesting of an advisory opinion, it was feared that the American decision might be so long delayed as to destroy the utility of the function of such reference to the Court.[2]

From the point of view of the United States, a further classification of advisory opinions should be noted, since much stress was laid upon it in the subsequent discussions. An advisory opinion may relate to a dispute to which the United States is a party or it may relate to a dispute or question other than a dispute in which we are less directly interested.

The first grouping, stated in general terms, raises the question whether the Court can or will render an advisory opinion concerning a dispute between a Member of the League and a non-Member when the latter does not con-

[1] League of Nations, *Treaty Series*, XVIII, p. 306.

[2] Hudson, *American Reservations*, p. 9–18.

sent. This issue was raised before the Court and settled in 1923.[1]

In that year the Council, on the suggestion of Finland, requested the Court to render an opinion regarding the treaty of Dorpat of October 14, 1920, between Finland and Russia. This was the now famous "Eastern Carelia case." The question arose from an acute dispute between the two countries; Finland was a Member of the League, Russia was not. The Soviet Government sent a telegram to the Court in which it forcefully denied the Court's competence to consider the question and refused to take any part in the proceedings.

On July 23, 1923, the Court announced its conclusion that it could not render any opinion. The Court declared that it "is well established in international law that no state can, without its consent, be compelled to submit its disputes with other states either to mediation or to arbitration, or to any other kind of pacific settlement." The Court further pointed out that "answering the question would be substantially equivalent to deciding the dispute between the parties. The Court, being a court of justice, can not, even in giving advisory opinions, depart from the essential rules guiding their activity as a court." To state this result in terms of American interests, the Court has decided that it can not render any advisory opinion regarding an actual dispute between the United States and a Member of the League without the former's assent.

There is no such judicial precedent for a dispute or question to which the United States is not a party but in which it has an interest. In the nine years of its existence the Court has rendered 16 advisory opinions, none of which has affected American interests. This is not proof that a question involving our interests will never be submitted to the Court, but it does indicate that the occasions, if they ever do arise, will not be frequent. The situation, however, which the Senate seems to have had in mind in framing the fifth reservation is one in which, for example, a dispute

[1] Advisory Opinion No. 5, Series B, No. 5, summarized in Hudson, *World Court*, p. 64–66.

arises between Great Britain and the Argentine Republic, wherein somehow the Court might be asked to define the Monroe doctrine. Or a dispute might arise between Australia and Japan regarding immigration laws and the Court be asked to give its opinion on the power of one state to exclude the nationals of another. In this connection, it should be noted that such an opinion could be rendered now at any time before the United States adheres to the Court Statute. In other words, this is not a situation which would arise from the fact of our participation. Nor is it true that such an opinion would have any more binding effect upon us if we were a participant. The advisory opinions of the Court, as their name implies, are merely advisory, and have no direct compelling legal force. Neither the Council of the League nor the states involved are compelled to act in accordance with the opinion. But the Court has achieved, through the very excellence of its work, a position of respect and authority, and its views have great influence throughout the world. This influence, however, resting on merit, is just as great with regard to a nonparticipating as to a signatory state. The signature of the protocol of December 16, 1920, and the acceptance of the Statute incidental thereto, imposes no new legal or moral obligation with regard to acquiescence in advisory opinions.[1]

To return to the discussion of this second part of the fifth reservation in the 1926 Conference of Signatories, it is found that one of the basic difficulties which pervaded this and subsequent discussions was a matter of the interpretation of the Covenant of the League. It was generally believed that by this stipulation the Senate sought to secure a veto power over requests for advisory opinions.[2] It was therefore pertinent to inquire whether such a power would place the United States in a privileged or in an equal position as against the Members of the League. The question resolved itself therefore into this: In adopting a motion to

[1] Hudson, *American Reservations*, p. 15.

[2] This point will be analyzed later; see *infra*, p. 57 [697].

request an advisory opinion from the Court, is it necessary to have a unanimous vote in the Council or Assembly, or does a majority vote suffice? If the former be true, then each state represented has a veto power and a like position could properly be claimed by the United States. This would not be so if the latter alternative is correct.

The pertinent article of the Covenant is number 5, which provides that except for "matters of procedure" — which includes the appointment of "committees" to investigate particular matters — "decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting." It has not yet been decided whether the requesting of an advisory opinion is a procedural matter. As Professor Hudson has well said, "The question is one of politics as well as law, and the last word does not belong to the lawyers." [1] The truth of this statement will be more apparent in a subsequent discussion.

In the discussions of the 1926 Conference of Signatories, great weight was attached to a declaration made in the Senate by Senator Walsh of Montana. Senator Walsh maintained that the Council must proceed by unanimity in requesting an advisory opinion and that therefore the United States was seeking merely a position of equality.[2] From this position the conclusion was logically reached that some formula which would assure the United States a position of equality would be satisfactory to that Government.

It was recognized, however, that the difficulty might be avoided if the question of unanimity could be definitely settled and several members of the conference were in favor of asking the Council to request the Court to give an advisory opinion on the matter.[3] This view did not prevail.

The conference constantly bore in mind the distinction

[1] Hudson, *American Reservations*, p. 12; *ibid.*, note 27, for collection of citations to views of writers on the subject.

[2] *Minutes of the Conference*, p. 22, speech of M. Rolin.

[3] See remarks of M. Rolin, M. Pilotti and M. Dinichert, *ibid.*, p. 23, 26 and 39.

between disputes to which the United States was a party and other disputes or questions. With regard to the former category the conference seemed to feel that the American Government was justified in insisting that its consent must be first secured. But the conference believed that this desire had already been gratified by the jurisprudence of the Court itself in the Eastern Carelia case. So far as the second category of cases was concerned, the conference felt that the according of a position of equality with the states represented in the Council and Assembly would be fair and probably satisfactory to the United States.[1]

There was, however, the further procedural difficulty of determining how and when the consent of the United States would be made known. Was this a matter which would have to be referred to the Senate, which might not be in session when the question arose; or did it fall within the powers of the Executive? Would the United States designate some one to sit with the Council or Assembly for this purpose, or would negotiations have to be carried on with Washington? Would the Council know the views of the United States before reaching its decision or would these views be made known only to the Court after it had received the request? [2] In view of the above-mentioned importance of the time element in some cases, it is obvious that these questions could not be overlooked. On the other hand, it seemed fruitless to discuss them without the presence of a representative of the United States.

There was some discussion also of the wording of the reservation — "has or claims an interest" — [3] but, in view of the formula finally adopted, the definitive interpretation of this phrase was unnecessary.

These various points are made clear in the Final Act.[4] As regards disputes to which the United States is a party, the Eastern Carelia case is referred to as meeting the desire of the United States. As regards other disputes

[1] See report of Drafting Committee, *Minutes of the Conference*, p. 53–54.

[2] See remarks of Sir George Foster, *ibid.*, p. 28–30.

[3] *Ibid.*, p. 25, 32, 37, 38 and 44.

[4] *Ibid.*, p. 79; Hudson, *World Court*, p. 179–180.

or questions in which the United States claims an interest, it is agreed that a position of equality with states represented on the Council or Assembly should be accorded and it is noted that the conference understands that this is the object of the United States. Attention is then drawn to the uncertainty attending the question of unanimity. The last two paragraphs of the Final Act are clear descriptions of the whole situation regarding advisory opinions and should be read in full: [1]

> Great importance is attached by the Members of the League of Nations to the value of the advisory opinions which the Court may give as provided for in the Covenant. The conference is confident that the Government of the United States entertains no desire to diminish the value of such opinions in connection with the functioning of the League of Nations. Yet the terms employed in the fifth reservation are of such a nature as to lend themselves to a possible interpretation which might have that effect. The Members of the League of Nations would exercise their rights in the Council and in the Assembly with full knowledge of the details of the situation which has necessitated a request for an advisory opinion, as well as with full appreciation of the responsibilities which a failure to reach a solution would involve for them under the Covenant of the League of Nations. A state which is exempt from the obligations and responsibilities of the Covenant would occupy a different position. It is for this reason that the procedure to be followed by a non-Member state in connection with requests for advisory opinions is a matter of importance and in consequence it is desirable that the manner in which the consent provided for in the second part of the fifth reservation will be given should form the object of a supplementary agreement which would insure that the peaceful settlement of future differences between Members of the League of Nations would not be made more difficult.
>
> The conference ventures to anticipate that the above conclusions will meet with acceptance by the United States. It observes that the application of some of the reservations of the United States would involve the conclusion of an appropriate agreement between the United States and the other states signatories of the Protocol of December 16, 1920, as was indeed

[1] *Minutes of the Conference*, p. 79; Hudson, *op. cit.*, p. 180.

envisaged by the Secretary of State of the United States in his reply to the Secretary-General of the League of Nations dated April 17, 1926. To this end, it is desirable that the states signatories of the Protocol of December 16, 1920, should conclude with the United States a protocol of execution which, subject to such further exchange of views as the Government of the United States may think useful, might be in the form set out below.

In drafting a text for incorporating these conclusions in the Preliminary Draft of a Protocol, both classes of disputes or questions would seem to be covered, though no attempt was made to perpetuate the doctrine of the Eastern Carelia case in treaty form. It seemed clear, however, from the words of the Final Act that the Signatory States were fully in accord as to the soundness of that doctrine.[1] The text in question is contained in Art. 4 of the protocol and is as follows: [2]

> The manner in which the consent provided for in the second part of the fifth reservation is to be given, will be the subject of an understanding to be reached by the Government of the United States with the Council of the League of Nations.
>
> The states signatories of the Protocol of December 16, 1920, will be informed as soon as the understanding contemplated by the preceding paragraph has been reached.
>
> Should the United States offer objection to an advisory opinion being given by the Court, at the request of the Council or the Assembly, concerning a dispute to which the United States is not a party or concerning a question other than a dispute between states, the Court will attribute to such objection the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council.

[1] In view of this fact and of subsequent developments, it is no longer necessary to debate the supposed disagreement with the doctrine expressed by the Council, nor the action of the Court in the subsequent Mosul case, which has improperly been claimed by some persons to be contrary to the Carelia case. For the Council's action on the Carelia case, see *Official Journal*, November, 1923, p. 1335–1337. For discussion of the Mosul case, see Hudson, "The Fourth Year of the Permanent Court of International Justice", *International Conciliation*, April, 1926, No. 219, p. 1, 19 *ff.*

[2] *Minutes of the Conference*, p. 83; *infra*, p. 130 [770]. For detailed discussion of the Conference debates, see Quincy Wright, "The United States and the Court," *International Conciliation*, September, 1927, No. 232, p. 339 *ff.*, and the same writer in 21 *American Journal of International Law*, p. 9 *ff.*

The Final Act and the Preliminary Draft of a Protocol thus contemplated some further negotiations on the formulas to be adopted. In his note of February 19, 1929, Mr. Kellogg recognized this fact. He pointed out that it was the second part of the fifth reservation which "raised the only question on which there is any substantial difference of opinion." Alluding no doubt to that part of the Final Act quoted above which deals with the importance attached by the Members of the League to advisory opinions, Mr. Kellogg wrote in friendly and sympathetic terms.[1] "The Government of the United States," he declared, "desires to avoid in so far as may be possible, any proposal which would interfere with or embarrass the work of the Council of the League of Nations, doubtless often perplexing and difficult, and it would be glad if it could dispose of the subject by a simple acceptance of the suggestions" of the Conference of Signatories. Nevertheless, certain "elements of uncertainty" in these suggestions seemed to him not to preclude agreement, but to "require further discussion." He noted that the "powers of the Council and its modes of procedure depend upon the Covenant of the League of Nations, which may be amended at any time. The ruling of the Court in the Eastern Carelia case" was also, he pointed out, "subject to change at any time." "For these reasons," he concluded, "without further inquiry into the practicability of the suggestions, it appears that the Protocol submitted by the 24 Governments in relation to the fifth reservation of the United States would not furnish adequate protection to the United States." But again Mr. Kellogg fortunately took pains to indicate that the situation was not hopeless, but that the door was wide open for further negotiation. In this spirit he declared:

Possibly the interest of the United States thus attempted to be safeguarded may be fully protected in some other way or by some other formula. The Government of the United States feels that such an informal exchange of views as is contemplated by the 24

[1] Hudson, *World Court*, p. 189.

Governments, should, as herein suggested, lead to agreement upon some provision which in unobjectionable form would protect the rights and interests of the United States as an adherent to the Court Statute, and this expectation is strongly supported by the fact that there seems to be but little difference regarding the substance of these rights and interests.

So it was that when the Committee of Jurists met in Geneva a few weeks later, the problem had been crystallized into one of finding a formula which would meet the views of the Signatory States and at the same time fully safeguard the interests of the United States. The framing of such a formula is Mr. Root's most recent contribution to the Court in the creation of which he was so largely instrumental.

In the period of a little more than two years which elapsed between the end of the 1926 Conference of Signatories and the dispatch of Mr. Kellogg's letter, much discussion had ensued as to the meaning of the words "claim" and "interest" in the fifth reservation. Numerous solutions had been suggested.[1] Mr. Root followed other lines of approach which he explained to the Committee of Jurists.[2] Two great difficulties had been experienced in the past, the one in defining "interest," the other in solving the question of the necessity of unanimity in the Council. Mr. Root avoided both these difficulties. He noted that it was practically impossible to find an abstract formula of general application which would apply satisfactorily to so multiform a conception as "interest." The United States has an "interest" in every rule of international law and in the prosperity of every country which is a customer for its products. But these, apparently, were not the "interests" which the Senate wished to safeguard. Moreover, it was apparent that a definition in terms of "legal interest" would be inade-

[1] See, for example, Esther Everett Lape, "A Way Out of the Court Deadlock," *Atlantic Monthly*, October, 1927, p. 517; Raul Fernandes, "The United States and the Permanent Court of International Justice," originally published in 34 *Revue Général de Droit International Public*, p. 561, translated into English and republished by the American Foundation. See views of Professor Hudson on these suggestions and his own profound solution in *American Reservations*, p. 13–21.

[2] *Minutes*, p. 11, 13, 15.

quate, since it would exclude such matters of policy as the Monroe doctrine. Mr. Root accordingly endeavored to shift the discussion from the abstract to the concrete and directed his plan toward a procedure for dealing with individual concrete cases as they arose. Following the position indicated by Mr. Kellogg in his note of February 19, 1929, he asserted that "there was no intention on the part of the United States to hamper the procedure of requesting advisory opinions upon unreal and unsubstantial grounds." [1] His design was to afford to the United States guaranties of protection which would be definite and permanent and at the same time to give assurance to the states Members of the League that there would be no undue interference with the use of advisory opinions.

For the accomplishment of these aims Mr. Root took two points of departure. The first was the acceptance of the five reservations and the second was the Final Act and Preliminary Draft of a Protocol adopted by the conference of 1926. It was possible for him to do this because, as Mr. Kellogg had said, there was "little difference regarding the substance" of the rights and interests of the United States. The difficulty was therefore in reality a procedural one, and the "Root Plan" is a procedural device. One aspect of this procedural difficulty was the uncertainty as to how the consent of the United States should be made known. In a great majority of actual cases, the emphasis in the fifth reservation would be on the words "the consent of the United States" and not on the statement that the Court shall not "entertain any request for an advisory opinion." The Root plan is also a device for manifesting that consent.

Although Mr. Root's draft avoided the necessity for settling the vexed question of unanimity,[2] this topic did not escape the attention of the Committee of Jurists. At the meeting of the Assembly in September, 1928, an attempt had been made to reach a solution of this question, but the move had been sidetracked by the adoption of an innocuous

[1] *Minutes*, p. 13.

[2] See the appreciation of this fact by Mr. van Eysinga, *ibid.*, p. 13, and by M. Politis, p. 14; see also Mr. Root's own statement, p. 15.

resolution suggesting that the Council consider the matter at an appropriate time.[1] The discussion in the committee clearly brought out the political complications of the issue to which allusion has been made above. For the large states, the rule of unanimity would seem to be preferable because, as Members of the League, they are deemed to have consented in advance to the rendering of advisory opinions in disputes to which they are parties,[2] and accordingly they wish to be able to control requests for such opinions. Such control would be theirs only if the unanimity rule applies.[3] In this respect their position is not as free as that of the United States as a non-Member of the League. On the other hand, the small states have constantly been eager to increase the scope of the Court's activity, since they see in that tribunal a possible safeguard for rights which they are not powerful enough to enforce in other ways. Thus, too, they would welcome the adoption of a rule that advisory opinions could be requested from the Court by a majority vote.[4] Forty-two states, including the British Empire, France, Germany and Italy, have signed the so-called "optional clause," providing for the compulsory jurisdiction of the Court.[5]

[1] *Records of the Ninth Assembly. Plenary Meetings*, p. 73, 138 (*Official Journal*, Spec. Sup. No. 64).

[2] In the Eastern Carelia case, the Court seems to have taken this view. After declaring that under international law no state could be compelled to submit its disputes to any form of pacific settlement without its consent, it noted that this consent "can be given once and for all in the form of an obligation freely undertaken" or in a special case by consent *ad hoc*. "The first alternative," the Court says, "applies to the Members of the League who, having accepted the Covenant, are under the obligation resulting from the provisions of this pact dealing with the pacific settlement of international disputes. As concerns states not Members of the League, the situation is quite different; they are not bound by the Covenant." Series B, No. 5, p. 27.

[3] There is also, of course, the possibility of a rule of "qualified unanimity," requiring the affirmative vote of all states except the actual parties to the dispute; see Hudson, *American Reservations*, p. 11, especially note 28.

[4] The writer should not be understood as asserting that the above views are held by all the large and small states respectively. An attempt has been made merely to point out lines of general interest of each group.

[5] See *infra*, p. 82 [722]. The 1929 session of the League Assembly witnessed the signature of 15 of the total number of states, including those of the British Empire, Italy and France. This general acceptance of the compulsory jurisdiction of the Court by the great states may alter materially the situation described in the text. The states which signed the optional clause at Geneva in September 1929 are: Australia, Canada, Czechoslovakia, France, Great Britain, Greece, India, Irish Free State, Italy, Latvia, New Zealand, Nicaragua, Peru, Siam and South Africa.

This antithesis may be traced in the committee discussions. The chairman, M. Scialoja of Italy, while asserting that his personal view had always been that technically a majority vote would suffice, pointed out that, because no decision on the question could be reached, "in practice advisory opinions were not asked for" on recent occasions, the Council consulting instead groups of jurists.[1] Anticipating that complications would arise under the procedure suggested by Mr. Root, he believed that the ultimate effect "would be a tendency to abolish the whole system of advisory opinions. Personally, he would not greatly regret their disappearance." [2] He favored a solution of the difficulty by deciding upon the unanimity rule.

A different point of view was expressed by M. Raestad, former foreign minister of Norway, in a powerful statement which he made at the twelfth session of the committee.[3] M. Raestad said that the group of nations to which his own country, Norway, belonged, attached the greatest importance to the adhesion of the United States to the Court. But at the same time these nations considered the maintenance of the system of advisory opinions as of equal importance. If the adhesion of the United States could not be secured without endangering this system, Norway and the other countries would be placed in an extremely difficult situation.[4] M. Raestad was glad to note, however, that these countries were not actually placed in such a dilemma since the issue was avoided under Mr. Root's plan.

Sir Cecil Hurst's report on the question of the accession of the United States alludes to these matters. He notes that the committee's task would have been simplified if it had felt able to recommend abandoning the whole system of advisory opinions. "The committee, however, is of opinion that it can not recommend any such drastic solution. The system of asking the Court for an advisory

[1] *Minutes*, p. 11.

[2] *Ibid.*, p. 15.

[3] *Ibid.*, p. 76–77.

[4] It may be pertinent to recall here that the accession of the United States can be accomplished only by the unanimous consent of the present Signatory States.

opinion has proved to be of substantial utility in securing a solution of questions which could not conveniently be submitted to the Court in any other form. It has also on occasions enabled parties to a dispute to ask for the submission of their difference to the Court in the form of a request for an advisory opinion when they were for various reasons unwilling to submit it in the form of international litigation." [1]

The report continues: [2]

> The committee has also felt obliged to reject another method by which satisfaction might without difficulty be given to the conditions laid down by the United States. It is that of recommending the adoption of a rule that in all cases a decision on the part of the Council or of the Assembly to ask for an advisory opinion from the Court must be unanimous.
>
> As is pointed out in the Final Act of the Special Conference of 1926, it was not then possible to say with certainty whether a decision by a majority was not sufficient. It is equally impossible to-day. All that is possible is to guarantee to the United States a position of equality in this matter with the States which are represented in the Council or the Assembly of the League.

The method by which the Root Plan avoids this pitfall will be described shortly. Meanwhile we may return to a consideration of its general scope and special provisions.

It has already been noted that the Root Plan was based on the Final Act and Preliminary Draft of a Protocol formulated by the 1926 Conference of Signatories. The plan retained the distinction between disputes to which the United States is a party and disputes in which the United States merely has an interest. But Mr. Kellogg had pointed out that the United States could not be satisfied with the conference's reference to the jurisprudence of the Court, since the precedent of the Eastern Carelia case could be reversed at any time. The conference had in reality agreed that no opinion should be rendered without the consent of the United States in any dispute to which

[1] *Infra*, p. 141 [781].

[2] *Infra*, p. 142 [782].

the United States might be a party. But the form in which this agreement was expressed was unsatisfactory. In Mr. Root's original plan the first paragraph stated this point flatly.[1] But his second paragraph laid a like prohibition on the rendering of an advisory opinion without the consent of the United States touching any other dispute or question in which the United States claims an interest. Thus the whole field is covered.

The original Root Plan then has three paragraphs whose purpose is described in the third paragraph of the plan. "The manner in which shall be made known whether the United States claims an interest and gives or withholds its consent shall be as follows:—" There are three possible steps or stages in the procedure: first, exchange of views with the Council or Assembly; second, notice from the Court with opportunity for hearing; third, stay of Court proceedings and further exchange of views with the Council or Assembly.

It will be seen that the fundamental point in Mr. Root's scheme is this exchange of views with the League organs which propose requests for advisory opinions. Since there has been some objection in the United States to dealing with the League in matters relating to the Court, certain observations on this point may be in order. The Preliminary Draft of a Protocol adopted by the 1926 Conference of Signatories had, in its Art. 4, suggested that an understanding be reached between the Government of the United States and the Council of the League as to the manner in which the consent of the United States should be given. Thus, in effect, the Signatory States constituted the Council their agent to make this arrangement. All the Signatory States at that Conference were also Members of the League. Indeed, Brazil, which has withdrawn from the League, is at present the only non-Member state which is a party to the Court treaty. It was thus quite natural for these states to select as agent the body which may be called the executive committee of the League of Nations.

[1] The text of the original plan is in *Minutes*, p. 9, and Appendix, p. 138 [778].

There would appear to be no reason for our refusing to deal with any agent which they chose to designate. There are numerous precedents for like action in the past. When, in 1911, the United States wished to become a member of the Permanent International Council for the Exploration of the Sea at Copenhagen,[1] it could not deal directly with the Council, but had to negotiate through the Danish Government, which acts as its agent in all diplomatic affairs.[2] Similarly, the Commission Internationale pour l'Exploration Scientifique de la Mer Méditerranée conducted its diplomatic negotiations through the Prince of Monaco.[3] The two Hague Peace Conferences of 1899 and 1907 had no formal permanent organization, so that difficulty was experienced when it was desired to convene a third conference. On January 31, 1914, Secretary of State Bryan sent out a circular instruction to our diplomatic officers regarding such further conference and he pointed out the need of an agency through which the various Governments might operate.[4] He suggested the formation of an "international preparatory committee" and thought that the Administrative Council of the Permanent Court of Arbitration at The Hague might well be used in this capacity. This council, not wholly dissimilar in composition to the Council of the League, is composed of the Netherlands minister for foreign affairs and the diplomatic representatives of the contracting states accredited to The Hague. Secretary Bryan's further statement in this connection is rather apt to the situation regarding the need for an agent such as the Council of the League, for handling the negotiations of the states parties to the Court treaty with the United States. "To this Council," — that is, the Administrative Council

[1] This Council is the most important international organization for the study and protection of deep-sea fisheries. It has been in existence for 27 years and has now a membership of 14 countries. The United States has not continued its participation since the war, due to the fact that such marine problems of particular interest to the United States are now handled by a separate organization on this side of the Atlantic.

[2] *Rapports et Procès-Verbaux* of the Council, Vol. XV, p. 12 and 42, and Vol. IL, p. 112.

[3] See *Bulletin de l'Institut Océanographique*, No. 167.

[4] United States, *For. Rel.*, 1914, p. 4.

of the Permanent Court of Arbitration, — he said, "the task of preparation for the conference may readily and appropriately be committed. The place at which the council sits leaves nothing to be desired from the point of view of convenience, while the intrusting of the work to a competent body already in existence would result in an appreciable saving both in time and expense."

With a similar purpose, the Second International Opium Conference of 1913, at which the United States was represented, designated the Dutch Government as the general agent for handling affairs under the convention adopted. As ratifications of the Court treaty are deposited with the Secretary-General of the League as agent, so ratifications of this opium treaty were deposited with the Dutch Government. With this Government as agent, we negotiated also for arranging a third conference.[1]

Adopting a slightly different method, but with the same purpose in view, the convention for the protection of industrial property, which was ratified by the United States on June 20, 1912, continued the organization of the prior conventions of 1883 and 1900, whereby a Union for the Protection of Industrial Property was set up with a central bureau at Bern. For this bureau the Swiss Government acts as agent for the exchange of information, the preparation of further conferences and the like.[2] Similar examples of this kind could be multiplied, but it will suffice to note that the slavery convention of 1926, to the ratification of which the Senate consented on February 25, 1929, makes the Secretary-General of the League the agent for the exchange of information, the deposit of ratifications and the like.[3]

As Mr. Hughes has said, "there is no more difficulty in dealing with the organization of the League in this way for the purpose of protecting our interests or furthering our policies than there would be in dealing with the British

[1] United States, *For. Rel.*, 1912, p. 217–219; 1914, p. 924–926.

[2] *Ibid.*, 1913, p. 1363.

[3] United States, *Treaty Series*, No. 778.

Empire." [1] At the present time we have exchanged ministers with Canada and the Irish Free State, thus recognizing their independent status and dealing with them direct. But for dealings with the other Dominions of equal status, such as Australia and New Zealand, we still use the agency of the British Foreign Office.

Now in the negotiations of the United States relative to the Permanent Court of International Justice, it is possible to write 50 or more notes to the several participating Governments. But it has been seen that these Governments prefer to meet together to discuss these matters. It would also be conceivable that for the purpose of manifesting our consent to the rendering of an advisory opinion, one might suggest separate notice to each interested state. But such an awkward and tedious process could not possibly be accepted by the other states and it would scarcely recommend itself, on the grounds of efficiency, to the United States. In the above-quoted words of Mr. Bryan, negotiation with some agent of the many states involved "would result in an appreciable saving both in time and expense."

So Mr. Root, following these ideas and precedents, suggested in his plan direct dealing with the Council or Assembly of the League, in which requests for advisory opinions originate.

In the original Root Plan, however, it is merely provided in the first instance that, "whenever in contemplation of a request for an advisory opinion it seems to them desirable, the Council or Assembly may invite an exchange of views with the United States and such exchange of views shall proceed with all convenient speed."

The second step in the plan is based on the existing Rules of Court and provides that

> Whenever a request for an advisory opinion comes to the Court, the Registrar shall notify the United States thereof among other states mentioned in the now existing Art. 73 of

[1] Speech of Charles Evans Hughes at New York Republican State Convention, April 15, 1924.

> the Rules of Court stating a reasonable time-limit fixed by the President [of the Court] within which a written statement by the United States concerning the request will be received.

If in response to this notice the United States advises the Court that the request "touches a dispute or question in which the United States has an interest and that the United States has not consented to the submission of the question," then all proceedings in the Court are stayed until such an exchange of views as previously described takes place. The final paragraph of the plan is descriptive of what may happen in the exchange of views and should be read in full:

> If after such an exchange of views either while a question is in contemplation or after a question has gone to the Court, it shall appear (1) that no agreement can be reached as to whether the question does touch an interest of the United States within the true meaning of the second paragraph of this article; and (2) that the submission of the question is still insisted upon after attributing to the objections of the United States the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council; and if it also appears that the United States has not been able to find the submission of the question so important for the general good as to call upon the United States to forego its objection in that particular instance leaving the request to be acted upon by the Court without in any way binding the United States; then it shall be deemed that owing to a material difference of view regarding the proper scope of the practice of requesting advisory opinions the arrangement now agreed upon is not yielding satisfactory results and that the exercise of the powers of withdrawal provided in Art. 7 hereof will follow naturally without any imputation of unfriendliness or of unwillingness to cooperate generally for peace and good will.

The most important point to note in this paragraph is that it provides for a case which might never arise and that it was intended as an ultimate safeguard to "provide against a very rare and improbable contingency." [1] On

[1] Explanation of Mr. Root, *Minutes*, p. 13.

the basis of his long experience in international affairs, as a delegate to international conferences and especially as Secretary of State, Mr. Root was convinced that in the course of a full and friendly discussion such as he proposed, agreement would always be reached along one of the lines explained in his draft. The privilege of withdrawal would probably never need to be exercised.[1] The nature of the ultimate safeguard through withdrawal is suggested by the provision of Art. 7 of the Preliminary Draft of a Protocol adopted by the 1926 Conference of Signatories, which gave the Signatory States the privilege of restoring the *status quo ante* by withdrawing their acceptance of the American accession.

It is important to note the reason for the possible withdrawal of the United States as clearly described in this original plan. The description is not retained in the Final Draft which will be considered shortly, but is implicit in it, since it constitutes a statement of fact. It must not be erroneously assumed that Mr. Root proposed that we should withdraw from the Court because of a sense of pique over any failure to make our point of view prevail in a specific case or because of annoyance regarding the adoption of some particular request for an advisory opinion. If this were the basis, there might possibly be some justification for the feeling that a withdrawal under these circumstances would place us in an unfavorable light before the public opinion of the world, although this fear would seem to be dispelled by the proviso that the withdrawal would "follow naturally without any imputation of unfriendliness or of unwillingness to cooperate generally for peace and good will." The withdrawal contemplated by Mr. Root as an ultimate though remote safeguard would be due to a more fundamental difference of opinion. He believed that the cooperation of the United States in the work of the Court could be successfully carried on and that through this proposed friendly exchange of views, agreement could always be reached. If this were not the

[1] Explanation of Mr. Root, *Minutes*, p. 15.

case, it might as well be recognized that the proposed collaboration was impossible, "*owing to a material difference of view regarding the proper scope of the practice of requesting advisory opinions.*" In such a situation it would be best for all concerned if we returned to our present situation of a non-participating state.

Such was the nature of the original Root Plan as submitted to the Committee of Jurists on March 11. It has already been noted [1] that the project had already received the informal and general approval of the principal statesmen of Europe and that its basic principles had commended themselves also to certain official persons in the United States. Attention has also been called to the fact that the project was not drafted with the idea that it would form the ultimate text of a treaty. Mr. Root was too experienced in the ways of conferences and committees to ignore the fact that any primary proposal must be redrafted to meet the varying views and suggestions of those concerned. The draft was accordingly considered by him and laid before the Committee of Jurists as a basis for discussion. With this end in view it had been drafted so as to be self-explanatory and it had included details to the ultimate modification or omission of which Mr. Root had not the slightest objection.

One of the first suggestions made in the committee discussions was that of Sir Cecil Hurst which reverted to the 1926 protocol and Secretary Kellogg's note of February 19, 1929, and which proposed that the United States might freely withdraw if any modification were made in the Covenant of the League (presumably regarding unanimity) or in the rules or practice of the Court.[2]

The president, M. Scialoja, was insistent that the committee, under its terms of reference from the Council, should consider specifically Mr. Kellogg's note of February 19, 1929, in order that it might recommend to the Council the

[1] *Supra*, p. 6 [646].

[2] *Minutes*, p. 11.

nature of the reply to be made.[1] M. Gaus and others, however, believed that Mr. Root's proposal would itself contain the basis of a reply and that Mr. Kellogg's note need not be considered separately. This view prevailed.[2]

At the second session a new draft of the proposal prepared by Sir Cecil Hurst was circulated to the committee.[3] Mr. Root declared that, so far as he could see, it "fulfilled exactly the same purpose as his own. The essential point was that the United States should be promptly informed of the intentions of the Council in dealing with any matter in which the former might be interested, and that there should be some kind of informal conference in regard to any concrete case which might arise." [4] Before this Hurst draft was examined, M. van Eysinga of the Netherlands, vice chairman of the committee and formerly the president of the 1926 conference, had suggested that the procedure in Mr. Root's draft might be simplified and he suggested direct notice from the Council to the United States instead of indirect notice through the Court.[5] The Hurst draft, in fact, contained such a suggestion and the idea was acceptable to Mr. Root, who noted that in preparing his own draft he had felt it necessary to avoid any suggestion of interfering with the Council's procedure, but that if the other members felt such an arrangement would be welcome, he was quite willing to accept that arrangement.[6]

As bearing on the likelihood of agreement in an exchange of views with the Council, and on the improbability of withdrawal ever being necessary, it may be noted that the chairman drew attention to the fact that the Council would be most reluctant to take a step of so serious a character as to force the United States to withdraw. He accordingly considered this provision as a "species of sanctions" which would "be a kind of moral pressure on the Council." [7]

[1] *Minutes*, p. 12.

[2] See the Committee Report, p. 134.

[3] *Minutes*, p. 14; the text at p. 16.

[4] *Ibid.*, p. 13.

[5] *Ibid.*, p. 14, where are also the similar views of M. Osusky.

[6] *Ibid.*, p. 14.

[7] *Ibid.*, p. 5.

There was, however, such a very general feeling of assurance that agreement would always be possible that this consideration did not deter the ultimate acceptance of the plan.

The Hurst draft, in the interests of simplification, had combined the first two paragraphs of the Root draft, which, it will be recalled, separated disputes to which the United States was a party from those disputes or questions in which it merely had an interest. M. Raestad expressed himself forcefully as preferring the first form,[1] but the simpler redaction was ultimately adopted. M. Raestad feared that under the Hurst phrasing a situation might arise in which the Council and the United States might disagree and the United States might then withdraw. Subsequently, however, the Court might rule that the United States was a party to or had a legal interest in the dispute and that therefore the opinion could not be rendered. He wished, therefore, to leave the question of competency in the first place to the Court. This proposal failed to take account of what has been said above regarding the real reason for American withdrawal. It would, moreover, put the United States in the position of appearing before the Court as a litigant and then of withdrawing if it were defeated in the litigation. This would indeed be an awkward situation, to which the United States could never assent.

Other proposals were laid before the committee, some in formal drafts and some in informal oral suggestions.[2] The Hurst draft, however, seemed to afford the most satisfactory basis and no other draft was considered in great detail. On the other hand, numerous suggestions were made which were incorporated into the final text.[3] This final text may be studied in comparison with the original Root draft.[4]

[1] *Minutes*, p. 17.

[2] See especially those of M. Politis, *ibid.*, p. 21, and those of M. Fromageot, *ibid.*, p. 81.

[3] See *ibid.*, p. 22; Report of Subcommittee of Four, M. Politis, Reporter.

[4] The text in question is Art. 5 of the Draft Protocol adopted by the committee, *infra*, p. 136. Although Sir Cecil Hurst was designated as reporter to make the final draft, he was instructed to work closely with Mr. Root and as a matter of fact did so.

Instead of following Mr. Root's phraseology by starting with a statement as to what the Court may or may not do, the final text opens with a phrase taken from the fifth reservation itself and serves to emphasize the fact that it is concerned with providing a procedural device. It must be borne in mind that Mr. Root had first submitted a draft covering the second part of the fifth reservation only but that the final Draft Protocol covers all five reservations. The new provisions must therefore be considered with the rest of the protocol in mind, and especially the terms of Art. 1, in which the acceptance of all the reservations "upon the terms and conditions set out in the following articles" is agreed to. The acceptance of the second part of the fifth reservation is thus the underlying fact on which the text now considered hinges. The opening phrase is this: [1]

> With a view to insuring that the Court shall not, *without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest. . . .*

The first step in accomplishing this result is for the Secretary-General of the League to inform the United States,

> "through any channel designated for that purpose by the United States," "of any proposal before the Council or the Assembly of the League for obtaining an advisory opinion from the Court."

It will be noted that, since the United States may designate the channel of communication, it can have a notification sent to Washington by cable; it can have its minister at Bern informed by telegraph or telephone; or it can have a representative present in Geneva who will receive a written or oral statement. The words "before the Council or the Assembly" were carefully chosen to preserve a certain measure of elasticity. It was realized that it would be unnecessary to put the machinery into

[1] The italics are inserted to show the precise words taken from the fifth reservation.

operation merely because some individual had suggested that he would like to have the Council request an opinion. On the other hand, it would not do to wait till the matter were placed on the agenda of the meeting since a request for an advisory opinion would probably never appear in that form. The agenda would merely include the subject matter of the dispute and the course of the discussion would bring out whether it should be settled by means of a request for an advisory opinion. In the light of the committee discussions it may be said that "before the Council" means "under serious consideration." [1]

The second step is that,

> if desired, an exchange of views as to whether an interest of the United States is affected shall proceed with all convenient speed between the Council or the Assembly of the League and the United States.

This preserves the essence of the Root Plan. It should be noted that the exchange of views shall take place "if desired," that is, by either party. Frequently and probably usually, the United States would be able to say at once that it had no interest and that discussion was therefor unnecessary. It is also important to note the expressed purpose of the exchange of views. This is not to decide whether the opinion should be requested, but merely whether "an interest of the United States is affected." When this provision is read in the light of Art. 1 which accepts the reservations, and in the light of the opening phrase of this Art. 5 — "with a view to insuring that the Court shall not without the consent of the United States entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest" — the inference is clear that if an interest of the United States is affected, the request will not be transmitted.

The article then continues with a new paragraph based largely on the original Root draft. It was pointed out

[1] *Minutes*, p. 77–79.

in the committee [1] that the Council sessions usually last only a week and that in a serious emergency it might be necessary for the Council to take some action before it would be possible to complete an exchange of views. The draft accordingly provides a solution for this difficulty. It requires the Registrar to notify the United States whenever a request for an advisory opinion comes to the Court. Like the Root draft it also emphasizes and crystallizes the present practice of the Court by a reference to Art. 73 of the Rules regarding notice and the fixing of a reasonable time limit within which a written statement by the United States will be received. The article of the Draft Protocol continues:

> . . . If for any reason no sufficient opportunity for an exchange of views upon such request should have been afforded, and the United States advises the Court that the question upon which the opinion of the Court is asked is one that affects the interests of the United States, proceedings shall be stayed for a period sufficient to enable such an exchange of views between the Council or the Assembly and the United States to take place.

Although this proviso is designed to cover especially the emergency just described, it is couched in general terms and thus affords the United States an additional safeguard in every case.

The next paragraph goes back to the idea contained in Art. 4 of the protocol of 1926, which was also incorporated in the original Root draft. It reads as follows:

> With regard to requesting an advisory opinion of the Court in any case covered by the preceding paragraphs, there shall be attributed to an objection of the United States the same force and effect as attached to a vote against asking for the opinion given by a Member of the League of Nations in the Council or in the Assembly.

This provision, it will be recalled, was originally adopted to afford a way out of the unsolved problem of unanimity

[1] See *Minutes*, p. 21, and Sir Cecil Hurst's Report, Hudson, *World Court*, p. 198.

or majority. In view of the other provisions in this new plan, this is no longer of vital importance, but at the same time it does give the United States one more safeguard. From the phraseology it will be apparent that both the Council and the Court must attribute this weight to the vote of the United States, since the text clearly refers to the preceding "paragraphs," one of which deals with the Council and the other with the Court. The Council might decide a majority vote was sufficient and transmit the request over the objection of the United States. The Court would then have to rule on the point and if it decided unanimity was necessary it would be forced to decide that the request was improperly before it and could not be answered. It is true also that, even if in some cases a majority vote was sufficient, the vote of the United States might turn a minority into a majority. In any event, we are assured a position of strict legal equality with the Members of the Council and Assembly and that without the correlative assumption of any of their obligations. Meanwhile, the fact that this safeguard is, while valuable and important, only subsidiary to the main plan, has made unnecessary the probably futile attempt to secure at this time a definitive interpretation of Art. 5 of the Covenant.

The last paragraph of this article in the Draft Protocol does not differ substantially from the corresponding part of Mr. Root's original draft, which provided for ultimate withdrawal, except that it is more condensed and does not fully state all the factual situations which Mr. Root found it appropriate to list in a preliminary proposal. It reads as follows:

> If, after the exchange of views provided for in pars. 1 and 2 of this article, it shall appear that no agreement can be reached, and the United States is not prepared to forego its objection, the exercise of the powers of withdrawal provided for in Art. 8 hereof will follow naturally without any imputation of unfriendliness or unwillingness to cooperate generally for peace and good will.

Attention is drawn to the fact that it is not only the United States which might withdraw in case of a disagreement. As in the Root draft, the words are "the powers of withdrawal provided for in Art. 8" and Art. 8, like Art. 7 of the 1926 protocol, provides for the withdrawal of the United States and of the other Signatory States.[1]

Since, as already noted, the acceptance of the fifth reservation is the basis for this whole article, and in view of the other points just elaborated, it would seem that no request for an advisory opinion could be entertained by the Court without the consent of the United States while this protocol is in force. In the improbable case of disagreement with the Council, for the reason already indicated, the United States would no doubt wish to withdraw from the whole arrangement, but on the other hand if the United States chose to stand on its objection, it would appear that proceedings in the Court would be stayed until the other parties exercised their rights under Art. 8 and brought the protocol to an end. This would throw upon them the *onus* of dissolving the partnership, but in reality there would be practically no factual difference. As M. Scialoja pointed out,[2] the Council would always be very slow to disagree with the United States, since the disagreement would probably cause American withdrawal. It is scarcely conceivable that a group of expert statesmen would not in such a situation find some different method of solution which would avoid such a calamity. A reframing of the form of submission or the putting forward of a different legal angle involved in the dispute would probably suffice to eliminate any American objection.

It has been suggested [3] that under the Root Plan, a veto power which would have been obtained under the fifth reservation has been abandoned. This statement requires analysis. In the first place, the theory of a veto power seems to have been based on the use of the words "claims

[1] This fact is not made clear in the Committee's Report; see Hudson, *op. cit.*, p. 198.

[2] See *supra*, p. 50 [690].

[3] *Minutes*, p. 20; see also Hudson, *American Reservations*, p. 13.

an interest." It was felt that a mere "claim" by the United States would be sufficient to block any opinion. But there are other words in the reservation. The claim of interest is sufficient to block the opinion if it is one "touching any dispute or question" in which that interest or alleged interest is involved. The reservation does not say it is sufficient if we "claim" that it touches such a matter. This is therefore a question of fact or of law for which the reservation provided no method of solution. It would seem that, if the Signatory States had in the first instance flatly accepted the fifth reservation, the following situation might have resulted: The Council would transmit a request to the Court. The United States would inform the Court that it claimed an interest. The Court, as a judicial body, acting in accordance with the treaties which govern its jurisdiction would say, even though that be true, where is the proof that this dispute or question "touches" that interest which you claim? The United States would have then been compelled to submit arguments to the Court, to explain and define the interest, and to allow the Court to pass upon it. This was just the result which the reservation intended to avoid, but to which it would almost certainly have led. The new protocol or Root Plan, therefore, not only fully protects every possible interest of the United States, but goes further in that direction than the reservation itself. Of course, under the withdrawal provisions, the power of control vested in the United States would cease when the protocol is terminated but no reservations which are always ultimately parts of a treaty can survive the existence of the treaty to which they are attached. One may echo the hope expressed in the report of the committee, that if any withdrawal ever materializes "it would in fact be followed or accompanied by the conclusion of some new and more satisfactory arrangement." [1]

[1] Hudson, *World Court*, p. 198.

III. PROPOSED AMENDMENTS TO THE STATUTE

When the Assembly, on September 20, 1928, adopted its resolution looking toward the revision of the Statute, it was made clear that there was "no question of recasting the Statute of the Court or of actually revising it. All we are proposing is that it should be examined with a view to remedying such defects as experience may have brought to light, and introducing amendments which could be effected by general agreement without undue delay." [1] For this reason, the proposal of M. Pella, the Rumanian delegate, to confer on the Court certain powers in penal matters was rejected. The Committee of Jurists fully recognized this limitation on the scope of its activities.[2]

The recommendations of the committee may be considered under the headings found in its report.[3]

Certain preliminary matters are first dealt with in the report. Among these is the question of the qualification of judges. Art. 2 of the Statute now requires them to be "persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law." [4] M. Fromageot (France) believed that the word "competence" did not necessarily include practical experience and he wished to see this quality included among the required attributes.[5]

[1] Statement of René Cassin, rapporteur for the First Committee of the Assembly, *Records of the Ninth Ordinary Session of the Assembly*, p. 110, col. 2. For a discussion of the wisdom of proceeding to secure amendments to the Statute by this method without first obtaining the views of the Court, see the illuminating article by Mr. Hammarskjöld, Registrar of the Court, in *Revue de Droit international et de Législation comparée*, 1928, No. 6, p. 5 *ff.* at p. 7–9 and 17 *ff.* This article also includes valuable comments on some of the substantive changes discussed in the committee.

[2] *Minutes*, p. 24; also Committee Report, *infra*, p. 105 [745].

[3] League Document, C. 142. M. 52. 1929. V. 4; also *infra*, p. 104 [744]. The conference at Geneva, September 4–12, 1929, and the Assembly of the League of Nations approved the report of the Committee with only slight changes.

[4] *Infra*, p. 83 [723].

[5] *Minutes*, p. 24.

It was also proposed that every judge should have some familiarity with the official languages of the Court — French and English. Not only for the examination of the often voluminous records and pleadings submitted to the Court and for the understanding of the oral arguments, but also particularly for the Court's own private consultations, such a language requirement would seem to be essential. On the other hand, the committee felt it would be undesirable to lay down so strict a rule on this point as to exclude from the bench persons otherwise highly qualified to serve upon it. Accordingly it was finally decided to specify a reading knowledge of both the official languages and a speaking knowledge of one of them.[1]

It was at first suggested that Art. 5 of the Statute, which describes the manner of nomination, should be amended to include a definite requirement that each nomination should be accompanied by a statement indicating that the nominee possessed the required qualifications.[2] An alternate suggestion was for the amendment of Art. 8 dealing with the method of election, to provide an opportunity for speeches in support of the candidates.[3] The President pointed out, however, that this might result in an election being based on the eloquence of the advocate rather than on the merits of the nominee.[3] It was eventually decided that the best plan would be merely to advise that the Assembly approve the following recommendation:[4]

The Secretary-General, in issuing the invitations provided for in Art. 5 of the Statute, will request the national groups to satisfy themselves that the candidates nominated by them possess recognized practical experience in international law and that they are at least able to read both the official languages of the Court and to

[1] See Committee Report, *infra*, p. 106 [746]; *Minutes*, p. 87–90, especially the statement of M. Anzilotti, President of the Court, p. 88.

[2] *Minutes*, p. 25.

[3] *Ibid.*, p. 26.

[4] Committee Report, *infra*, p. 106 [746]; also *Minutes*, p. 26, 39, 87–90; the compromise formula finally adopted was suggested by Mr. Root, *ibid.*, p. 27.

speak one of them; he will recommend the groups to attach to each nomination a statement of the career of the person nominated showing that he possesses the required qualifications.[1]

Composition of the Court

Many of the suggestions of the committee are based on a desire to improve the organization of the Court with a view to enabling it more easily to handle the steadily increasing volume of business confided to it. As Mr. Root has pointed out, when the Committee of Experts of which he was one framed the Court Statute in 1920, they were treading new paths and could not foresee the extent to which the new Court would be used. The committee of 1929, therefore, had to apply "the lessons, not of failure, but of success." [2]

With regard to the composition of the Court, the first matter considered was the position of deputy-judges. Art. 3 of the Statute now provides that the Court shall be composed of eleven regular judges and four deputy-judges. The committee decided that the class of deputy-judges should be abolished. M. Fromageot explained why this should be done.[3] The function of a deputy-judge was to act when a sufficient number of regular judges was not available to constitute a quorum. If it were inconvenient for a regular judge to attend a session, particularly if his home were at a great distance from The Hague, the realization that a deputy-judge was available to take his place might dissuade him from making a special effort to be present. But the need for having deputy-judges immediately available made it almost essential to elect to this position only persons residing reasonably

[1] The 1929 conference made this recommendation even milder, asserting its approval of the ideas but merely suggesting that the recommendation be transmitted to the Assembly "in order that eventually it may be brought by the Secretary-General to the knowledge of the national groups." The resolution adopted by the Assembly associates that body with the recommendation, which will be referred to by the Secretary-General in notices to the nominating groups. See *Report of the First Committee to the Assembly* (M. Politis, rapporteur) September 13, 1929, League Doc. A. 50. 1929. 5, p. 4, and *infra*, note p. 98 [738] (hereinafter referred to as "Report of First Committee, 1929").

[2] Prepared statement to the Press, Geneva, March 20, 1929.

[3] *Minutes*, p. 27.

near The Hague. This created a tendency to choose only Europeans, thus creating a privileged situation in their favor.[1] Furthermore, regular judges are placed under certain disabilities as to the activities in which they may engage,[2] while this restriction is not and could not fairly be imposed on the deputy-judges. Yet when sitting on the bench, both groups of judges are on a footing of equality; this did not seem an advantageous situation. In the words of the committee report, "practical experience thus points to assimilation of the two classes of judges and accordingly suggests the desirability of abolishing the deputy-judges and replacing them by an equal number of ordinary judges." [3] Art. 3 of the Statute now also provides that the number of judges and deputy-judges might be increased by the Assembly, on the proposal of the Council, to a total of fifteen judges and six deputy-judges. Since under the new amendment, this maximum number would be reached, the committee recommended omitting in this article all reference to increasing the bench. The new Art. 3 would thus read : "The Court shall consist of fifteen members." This abolition of deputy-judges of course would make necessary changes in other articles where they are referred to, but this being a matter of detail, it is not considered here.[4]

Permanent Functioning of the Court [5]

In noting the suggested abolition of the deputy-judges, it has been indicated that the need was felt for having the judges more readily available for service. Art. 23 of the Statute now provides that the Court shall hold a regular

[1] One of the present deputy-judges, however, is Wang Chung-hui of China.

[2] See Arts. 16 and 17 of the Statute, *infra*, p. 87 [727].

[3] *Infra*, p. 106 [746].

[4] The articles of the Statute affected are 8, 15, 16, 17, 25, 31 and 32; see Committee Report, *infra*, p. 107*ff*. [747*ff*.]. The proposed redraft of Art. 3 was accepted without change; see *Report of First Committee, 1929*, p. 2; *infra*, p. 83 [723].

[5] This is not the next subject in order in the committee report, which follows the order of the articles of the Statute. It seems, however, more convenient to shift the order here in order to draw together closely related matters.

session on June 15 of each year and that extraordinary sessions may be called if necessary. Up to June, 1929, the Court had held seven ordinary and nine extraordinary sessions.[1] This volume of business was far greater than had been anticipated when the Statute was framed in 1920 and it was probably for this reason that no requirement was laid down regarding the residence of the judges near the seat of the Court. In view of the experience of the Court, it seemed to the committee that this situation should be altered.[2] It was realized, however, that judges from non-European countries might be placed under a disadvantage if required to reside near The Hague and special provisions were made for such persons.[3]

The committee's final conclusion, after much discussion of detail, was that the Court should remain constantly in session except for judicial vacations and that the members of the bench should be continuously at the disposal of the Court. These provisions are all included in the suggested redraft of Art. 23 of the Statute, which is as follows:[4]

The Court shall remain permanently in session except during the judicial vacations, the dates and duration of which shall be fixed by the Court at the end of each year for the following year.

Members of the Court whose homes are situated at more than five days' normal journey from The Hague shall be entitled, apart from the judicial vacations, to six months' leave every three years.

Members of the Court shall be bound, unless they are on regular leave or prevented from attending by illness or other serious reason duly explained to the President, to hold themselves permanently at the disposal of the Court.

[1] See *Fifth Annual Report of the Court*, Series E, No. 5, p. 167.

[2] Committee Report, *infra*, p. 110 [750]; *Minutes*, p. 28 *ff*. and 34–36.

[3] M. Urrutia, of Colombia, especially called attention to this situation; *Minutes*, p. 29–36.

[4] Committee Report, *infra*, p. 111 [751]. The conference made the following changes in the above text: At the end of the first paragraph the words "at the end of each year for the following year" are omitted. At the end of the second paragraph the following words are added: "not including the time spent in traveling." See *Report of First Committee, 1929*, p. 2; *infra*, p. 110 [750].

Functions and Occupations Incompatible with Membership of the Court

At the present time, under Arts. 16 and 17 of the Statute, the judges are permitted to carry on private occupations so long as they do not violate the express prohibitions against exercising political and administrative functions or taking part in international cases as agent, counsel or advocate. Not only were there certain fundamental objections to this activity of the judges, but it would evidently be impossible under the proposed new arrangement whereby the Court would be practically in continuous session.

Although the committee members were in agreement that some further restrictions on the outside activities of the judges were necessary, there were long debates as to the framing of an appropriate text. M. Fromageot proposed excluding them from any activity except that of serving as a judge of the Permanent Court of Arbitration.[1] Mr. Root opposed this suggestion on the ground that it was too broad. He felt that the caliber of man needed on the Court was one who would resent these restrictions on his liberty which would make him feel that he was "returning to a state of tutelage resembling that of a schoolboy." [2] Having already required the judges to be constantly available for the work of the Court, something, in Mr. Root's opinion, might be left to their own good judgment and conscience.

M. Fromageot agreed that perhaps his draft had been too broadly phrased, but felt that the occupation of barrister before national tribunals, for example, was incompatible with the function of a judge on the Permanent Court of International Justice. He also felt that a judge should not continue to act as a university professor, since in his lectures he would become known as favoring certain views and doc-

[1] *Minutes*, p. 42.

[2] *Ibid.*, p. 43.

trines which would consequently incline him to judge certain cases in a particular way.[1] As the result of further discussion, the phrase ultimately adopted for insertion in Art. 16 provides that a judge shall not "engage in any other occupation of a professional nature." [2]

Manner of Forming the Court

Another problem developing from those already discussed was that of the size of the Court. Sir Cecil Hurst suggested an amendment which would provide that so long as the number of judges was not reduced below eleven, the Court, by its rules, could provide that one or more judges should be from time to time relieved from sitting.[3] Mr. Root supported this idea, urging that fifteen was too large a number to have on the bench at one time. He suggested the adoption of a scheme of rotation based on the plan in force for the courts of New York State for over 30 years.[4] This system enabled a judge, while not sitting on one case, to be at work upon a case which he had previously heard. The result would be an economy of time and effort and a remedy for the disadvantage attendant upon having too large a bench. Although it was noted that some difficulty might be experienced in applying this system to an international court,[5] the suggestion was finally adopted in the following new redaction of Art. 25: [6]

[1] In response to a question from the president, M. Fromageot stated that a man should not be excluded from the bench because he had written a book on international law, *ibid.*, p. 43; see also further discussion, p. 44–45.

[2] Committee Report, *infra*, p. 108 [748]; which see for comments and slight drafting changes in Art. 17. The conference adopted and the Assembly approved the phrase proposed by the Committee of Jurists on the understanding that it was "to be interpreted in the widest sense, *i.e.*, cover, for example, such an activity as being director of a company." The conference also slightly altered the new phrasing of Art. 17. See *Report of First Committee, 1929*, p. 2; *infra*, p. 87 [727].

[3] *Minutes*, p. 70, 74.

[4] *Ibid.*, p. 74.

[5] *Ibid.*, p. 74. See also statement in the Report that the committee of course intended that the application of this provision should never be such as to give grounds for suspicion that the Court has been specially composed in a given case for the purpose of affecting the decision of that case.

[6] Committee Report, *infra*, p. 111 [751]. The article was approved without change; *Report of First Committee, 1929*, p. 2; *infra*, p. 89 [729].

The full Court shall sit except when it is expressly provided otherwise.

Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

Provided always that a quorum of nine judges shall suffice to constitute the Court.

Resignation of a Judge

Quite a separate problem was the question of the resignation of a judge. The Statute at present contains no provision on the subject and when Judge Moore resigned he submitted his resignation through the Secretary-General to the Council and Assembly, but it was difficult to say whether a vacancy could be considered to have occurred before acceptance of the resignation by those bodies. It was considered desirable to remedy the omission by supplying a regular procedure.[1] The procedure adopted is for the judge to address his resignation to the President of the Court for transmission to the Secretary-General, the notification thus effected making the place vacant.[2]

Filling of Occasional Vacancies

A somewhat similar problem was that of filling occasional vacancies caused by death or resignation. Art. 14 of the Statute provides that such vacancies shall be filled in the same manner as provided for regular elections. But such elections are by the Assembly and Council and the former body meets only once a year in September. Since invitations to make nominations must, under Art. 5 of the Statute, be sent out at least three months prior to an election, it is obvious that a vacancy might exist for 15 months.[3] M.

[1] *Minutes*, p. 46.

[2] Committee Report, *infra*, p. 107 [747]; adopted with only a slight verbal change; *Report of First Committee, 1929*, p. 2; *infra*, p. 86 [726].

[3] See the statement of M. Fromageot, *Minutes*, p. 37. M. Fromageot called attention to the fact that Judge Weiss died in September, 1928, and that his place could not be filled till the meeting of the Assembly in September, 1929.

Fromageot suggested that perhaps an extraordinary session of the Assembly might be convened for the purpose of holding an election, but doubted the need for such action unless at least two vacancies occurred.

On this point the committee consulted the Secretary-General of the League, who expressed the opinion that this solution would present little real difficulty. If the Assembly were to act only on this one matter, it would be unnecessary for the states to send special representatives, since they could designate their diplomatic representatives in Bern or some other European capital.[1] The committee accordingly adopted the suggestion in the following form:[2]

> Vacancies which may occur shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General of the League of Nations shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Art. 5, and the date of the election shall be fixed by the Council at its next session.

Salaries of Judges

In line with the new provisions calling for more frequent sessions of the Court and more constant attendance of the judges, it was considered appropriate that the compensation of the judges should be increased. It had been found by experience that the arrangement now laid down in Art. 32 of the Statute for a fixed salary plus certain per diem allowances had caused great difficulties of administration and it was therefore proposed to give only a fixed annual salary of 45,000 florins — about $18,000. As before, the President and Vice-President would receive additional grants. The Statute empowers the Assembly to fix the compensation of the members of the Court so that this part of the committee's work takes the form of a suggested draft resolution of the Assembly, in addition to

[1] See the statement of M. Fromageot, *Minutes*, p. 37.

[2] Committee Report, *infra*, p. 107 [747]. The text was adopted as proposed by the committee; *Report of First Committee, 1929*, p. 2; *infra*, p. 86 [726].

the necessary changes in the text of Art. 32 of the Statute.[1] It should be noted that this amendment includes the provision that the remuneration received by the members of the Court "shall be free of all taxation." This being included in the Statute and thus forming part of a treaty would impose on all Signatory States a conventional obligation to grant exemption from such taxation.

National Judges

Under Art. 31 of the Statute, whenever the Court includes on the bench a judge of the nationality of only one of the parties to a case the other party is entitled to appoint one of its nationals to sit as a judge *ad hoc*. The committee felt that it should not interfere with this system, but recommended that it should be extended to the special Chambers of the Court for Labor, Communications and Transit, and Summary Procedure.[2] But with regard to this subject an interesting debate occurred. At the eleventh session, Sir Cecil Hurst raised the question of the status of the British Dominions.[3] He pointed out that the British Empire is a political unit of an exceptional type and called attention to the fact that the Dominions and Great Britain were separate Members of the League. He wished to be assured that all the members of the committee agreed that for the purpose of applying Art. 31 of the Statute, citizens of the Dominions were to be considered as having a nationality separate from that of Great Britain. Thus, if a case came before the Court involving Australia and Japan, under Sir Cecil's interpretation, the presence of an English judge on the bench would not prevent Australia from appointing a national judge *ad hoc*.

[1] See Committee Report, *infra*, p. 115 [755]; see *Minutes*, p. 55 *ff*. The schedule proposed was adopted by the Council and will be budgeted by the Assembly of the League in 1931; see resolution *infra*, note, p. 95 [735].

[2] Committee Report, *infra*, p. 112 *ff*. [752 *ff*.]; see *Minutes*, p. 53; adopted without change; *Report of First Committee, 1929*, p. 2; *infra*, p. 90 [730].

[3] *Minutes*, p. 70.

At this session only two members of the committee expressed any view on this theory. M. Raestad of Norway stated that Sir Cecil Hurst's interpretation seemed to be the logical one.[1] But M. Politis took vigorous exception. He considered it a matter of the highest importance which could not be disposed of by a mere interpretation.[1] Sir Cecil also responded with some force, but there the matter rested,[2] the committee passing on to another matter.

At the fourteenth session Sir Cecil raised the question again.[3] He stated that he had understood from the previous discussion that the committee, with the exception of M. Politis, shared his view, but it appeared that M. Politis believed that all but Sir Cecil and M. Raestad agreed with him. Sir Cecil accordingly made a careful technical argument based on various articles of the Statute and the distinction between "states" and "Members of the League of Nations," both of which may be parties before the Court. He asked that his interpretation be mentioned in the committee's report, but did not propose any amendment to the Statute.

M. Politis replied by saying that the adoption of such an interpretation would certainly prevent small states such as his own (Greece) from accepting the Optional Clause for the compulsory jurisdiction of the Court. He also opposed Sir Cecil's theory on legal grounds and asked that, if the committee inserted that interpretation in its report, it should also insert his formal reservations thereto.

M. Fromageot felt that the adoption of Sir Cecil's theory would open the door to grave abuses, while the acceptance of M. Politis' view would be a grave injustice to the Dominions. He, therefore, proposed a middle way whereby cases would be differentiated into those which concerned the whole Empire and those which concerned one Dominion only. But, in any case, M. Fromageot felt that any such attempt to interpret the Statute in advance of an actual

[1] *Minutes*, p. 71.
[2] *Ibid.*, p. 71–72.
[3] *Ibid.*, p. 84–87.

case arising would be outside the scope of the committee's functions.

M. Raestad then reaffirmed his agreement with Sir Cecil's position and expressed strong disapproval of M. Fromageot's compromise proposal.

M. Ito of Japan stated that the composition and status of the British Empire always perplexed him and that he did not wish to commit himself on the merits of the proposition. He believed, however, that this was not a matter on which the committee could pass judgment.

The only other speaker was M. Gaus of Germany who, while agreeing that the committee should not deal with the question at all, stated that he did not share the view of Sir Cecil Hurst as to the correct interpretation of the Statute.

In view of this divergency of opinion, the Vice-President, who was then in the chair, declared that the discussion should be closed. The only conclusion that one can reach from the discussion is that the matter was raised but not passed on by the committee. The views of the individual legal experts as to the correct interpretation of the Statute in this respect are of course most interesting but can not be taken as foreshadowing an ultimate decision either way. Probably the ultimate solution will not be reached for the time being. In this connection it may be noted that the United States has to a certain extent recognized the separate personality of the Dominions by exchanging ministers with Canada and with the Irish Free State.[1]

Advisory Opinions

One of the recommendations of the Committee of Jurists is of especial interest in connection with the accession of the United States. This recommendation is for the incorporation into the Statute of a new Chap. IV, dealing with advisory opinions. The Statute at present contains no reference to this part of the Court's jurisdiction and the Court has accordingly had to supply the deficiency by

[1] *Minutes*, p. 87.

framing appropriate rules. Many of the provisions of these rules contain matters analogous to those which, with respect to contested cases, are already in the Statute. It was accordingly proposed to transfer bodily into the Statute the appropriate provisions of the existing Rules.[1] The committee was throughout solicitous to avoid infringing upon the prerogatives of the Court in framing the rules of its own procedure, but M. Anzilotti, the President of the Court, on his own behalf and on that of M. Huber, the Vice-President of the Court, stated that they had no objection to the proposal.[2] It was pointed out by M. Huber that one reason for omitting reference to advisory opinions in the original Statute was the absence of any experience as to how this activity of the Court would operate, but this reason did not apply now after eight years of experience.[3] It was also noted that the proposal would be advantageous in connection with the anticipated accession of the United States.

In the discussions of the committee it became apparent that it would be useful to add to the rules which it was proposed to insert in the Statute a general article which would serve as a guide to the Court in exercising its advisory functions. Thus where an opinion was requested regarding an actual dispute, certain articles of the Statute would be applicable which it would not be appropriate to apply when the Court gave an opinion on a noncontentious question.

Thus, omitting matters which it was thought more proper to leave in the regulatory powers of the Court, the committee suggested inserting in the Statute four new articles, the first three of which correspond closely to Arts. 72, 73 and 74 of the Rules of Court, providing in particular for publicity and hearing in connection with advisory opinions. It is scarcely necessary to add that the adoption of this amendment would give complete sat-

[1] The discussion of the matter was opened by M. van Eysinga in the eleventh session; see *ibid.*, p. 66.

[2] *Ibid.*, p. 67.

[3] *Ibid.*, p. 68.

isfaction to the first part of the fifth reservation of the United States.[1]

Other Matters

In addition to what has been noted above, the committee made several other recommendations. With regard to the various special Chambers of the Court — for Labor cases, for Transit and Communications cases and for Summary Procedure — several drafting changes are advocated. For the first two it also made provision for summary procedure and to the Summary Procedure Chamber itself it made applicable the provisions of Art. 31 regarding national judges.[2]

Drafting amendments were also adopted for Arts. 38, 39, 40 and 45.[3] With regard to Art. 35, which provides that the Court may fix the amount of the contribution which should be paid by a state party to a dispute before the Court, but not a Member of the League, the committee thought no amendment necessary, but noted in its report that the third reservation of the United States would make this article inapplicable to that state if it should accede.[4]

[1] See Committee Report, *infra*, p. 119 [759]. In transferring the articles of the Rules into the Statute the Committee of Jurists omitted in the new Arts. 66 and 67 that part of the Rules which requires notice to interested international organizations as well as to interested States. The attention of the conference was called to this omission by the International Labor Office (League Doc. A. 22. 1929. V), which pointed out that with regard to advisory opinions concerning labor questions it seemed highly desirable to continue the present practice of the Court, whereunder notice is given to the International Labor Office. The conference accordingly restored these words in the new text. There is also a slight change in the wording of the new Art. 68 relative to the Court's cross-reference to other articles of the Statute. See *Report of First Committee, 1929*, p. 2; *infra*, p. 101 [741].

[2] *Ibid.*, p. 115 [755].

[3] *Ibid.*, p. 118 [758].

[4] Committee Report, *infra*, p. 117 [757]. This point was considered by the conference in the light of a communication from the Brazilian delegate. Brazil having withdrawn from the League, but having advised the Secretary-General that it desired to contribute to the expenses of the Court, wished to secure an arrangement permitting it to participate in elections. The conference proposed an amendment to Art. 4 providing that, "in the absence of a special agreement" (*e.g.*, such as that proposed with the United States), the Assembly should, on the proposal of the Council, lay down the conditions under which a state not a Member of the League might participate in the elections. As to Art. 35, the conference preferred to put into the text of the article the point suggested by the Committee in its report. It therefore recommended a new sentence in that article, to the effect that the Court's power to fix the contribution of a State not a Member of the League should not apply if such State "is bearing a share of the expenses of the Court." (*Report of First Committee, 1929*, p. 3; *infra*, p. 96 [736].)

Two other matters should be noted which were discussed but rejected by the committee and therefore do not appear in the report.

M. Fromageot proposed that the practice of rendering dissenting opinions should be abolished. In so doing he was merely advocating the continental European system in which the decision always appears merely as the judgment of the Court without any expression of opinions of individual judges, in place of the Anglo-American practice now actually in force in the Court.[1] M. Fromageot thought the continental system would give greater weight to the decisions of the Permanent Court of International Justice.

Sir Cecil Hurst and Mr. Root opposed this suggestion with great vigor, the former stating that "the effect of that proposal would be to destroy the Court." [2] Mr. Root felt that such a change would run counter to the whole modern trend of international affairs, which is moving in the direction of greater publicity. He also felt that in such a Court, no judge would be willing to "rest under an imputation of acquiescing in views which he did not hold" and that their dissenting opinions would thus come out privately. He felt that respect for, and the authority of, the Court "could not be founded on any suppression of the facts." He, too, felt that the suppression of dissenting opinions would be "disastrous." [3] M. Politis, M. Huber and M. Anzilotti, while trained in the continental school, rallied to the view of their English and American colleagues and M. Fromageot withdrew his proposal.

The other point of interest was the suggestion of M. Urrutia that Art. 34 of the Statute should be amended to make clear that the League of Nations as a judicial personality could be a party in a case before the Court.[4] This suggestion, of course, raised interesting questions as to

[1] *Minutes*, p. 50 *ff*.
[2] *Ibid.*, p. 50.
[3] *Ibid.*, p. 51.
[4] *Ibid.*, p. 57.

the nature and status of the League. It was noted that the League might be involved in a dispute with Switzerland as to its buildings or real property or it might be involved in a "public" dispute with a state. Mr. Root pointed out [1] that this was such an important and complex matter that a hasty decision in the limited time available to the committee would hardly seem proper. In view of these considerations and the great variety of views expressed by the members of the committee, it was thought best to leave Art. 34 unchanged in this respect.

There was a further matter on which the committee did not take action, but which gained added attention subsequently. M. Rundstein submitted a memorandum advocating the extension of the jurisdiction of the Court as a court of appeal.[2] Although the memorandum contained detailed proposals, M. Rundstein stated that he did not propose to have it discussed by the committee and he accepted the vice-chairman's suggestion that it be transmitted with the covering letter from the Committee to the Council.[3]

The same idea was adopted in a resolution of the Assembly on a proposal of the Government of Finland.[4] Again there was no suggestion for immediate consideration, but only for examination by the Council. It must be noted that the question involves some political complications, because of the situation now existing regarding the review of decisions of some of the Mixed Arbitral Tribunals of which so many are now set up in Europe.[5]

Procedure on Amending the Statute

Attention has already been drawn to the fact that at its June session the Council decided to convene a con-

[1] *Minutes*, p. 60.

[2] See *Minutes*, Annex 6, p. 105.

[3] *Minutes*, p. 75.

[4] *Journal of the Tenth Assembly*, September 26, 1929, No. 22, p. 390.

[5] See, for example, the Hungarian-Rumanian dispute; see Deák, *The Hungarian-Rumanian Land Dispute* (1928), especially p. 77 *ff*.

ference of the Signatory States to meet in Geneva in September to consider these proposed amendments to the Statute.[1] As regards the United States, it is of interest to note the possible eventualities and the relation of these amendments to American accession.

Two contingencies are possible: in the first place, the various Signatory States may ratify the protocol for American accession before the amendments are ratified. In that case, the United States would itself be one of the contracting parties whose consent would be necessary before the amendments could take effect. In this situation the United States Senate would be called upon to pass on the amendments — which seem to offer no objectionable feature from the American standpoint — but this action would be wholly independent of the question of the accession of the United States to the Court.

In the second place, ratification of the protocol for American accession may not be completed before the amendments to the Statute are ratified by the present Signatory States and thus have come into force. In such a case the treaty to the ratification of which the Senate has given its consent, subject to the five reservations, would no longer be in existence, having been replaced by a new treaty, though, to be sure, the new treaty would be merely a modified form of the old one. The President would then have to submit this new treaty to the Senate, together with the protocol for American accession and ask anew for advice and consent to ratification. Since, however, the amendments would appear to be unobjectionable to the United States, this would not seem to present any new political obstacle.

With a view to avoiding the difficulties inherent in this situation, an ingenious plan was proposed. The conference suggested [2] that three instruments would be presented to the United States for its acceptance, namely: (1) The

[1] The conference met September 4–12, 1929; its activities have been alluded to above.

[2] See letter from the President of the conference to the First Committee of the Assembly, *infra*, p. 127 [767].

Protocol of Signature of 1920; (2) the Protocol regarding American Accession; and (3) the Protocol of Amendments. It was stated that "while it is of course not within the province of the . . . Conference to anticipate what procedure the United States may follow, it may be hoped that the United States will in due course sign and ratify all three above-mentioned instruments."

The form in which the matter is presented is as follows: [1] The amendments are set forth in an annex to a Protocol which declares that the signatories agree to the amendments thus set out. The Protocol is open for signature by the signatories of the original Protocol of Signature of December 16, 1920, and by the United States. The Protocol is to be ratified, but it will enter into force on September 1, 1930, "provided that the Council of the League of Nations has satisfied itself that those Members of the League of Nations and states mentioned in the Annex to the Covenant which have ratified the Protocol of December 16, 1920, and whose ratification of the present Protocol has not been received by that date, have no objection to the coming into force of the amendments to the Statute of the Court which are annexed to the present Protocol." For this purpose the United States "shall be in the same position as a state which has ratified the Protocol of December 16, 1920." This is a generous concession to the American Government, enabling it to have a voice in the adoption of the amendments regardless of any delay which might be incidental to securing general ratification of the Protocol of American Accession. It is further stipulated that "after the entry into force of the present Protocol, the new provisions shall form part of the Statute adopted in 1920 and the provisions of the original articles which have been made the subject of amendment shall be abrogated. It is understood that, until January 1, 1931, the Court shall continue to perform its functions in accordance with the Statute of 1920." "After the entry into force of the present Protocol, any acceptance of the Statute of the

[1] See League Doc. A. 50 (Annex). 1929. V. 16, and *infra*, p. 124 [764].

Court shall constitute an acceptance of the Statute as amended." [1]

This arrangement, contemplating that a treaty may come into force through failure to object, is rather novel and, if successful, may prove a useful precedent for the future. It is inspired by the necessity for quick action. It presents some possible difficulties. The Protocol of Signature of 1920 is a treaty and can be amended only by unanimous consent.[2] If a state whose constitutional system requires parliamentary approval for ratification signs the new Protocol but thereafter remains inactive and silent, can it be said that it has approved the amendments? If not, are the amendments effective? Can the state be bound by the signature of an agent, who under the national law of the state *ex hypothese* is not authorized so to bind the state? In practical effect, however, it is probable that if such a situation should develop, the executive branch of such government would inform the Council that due to the failure to secure timely ratification, it must be considered as objecting to the coming into force of the amendments on the date specified. So far as the Government of the United States is concerned, it would seem unlikely that that Government would care to exercise its privilege of blocking the amendments unless it first ratified the Statute.

The form in which the whole subject will be submitted to the Senate must be a matter of surmise. The simplest procedure would seem to be to follow the suggestion of the conference and to submit all three Protocols to the Senate. On the other hand, the Senate Resolution of January 27, 1926, might be construed as carrying consent to ratification of the Protocol of Signature of December 16, 1920, provided that the Senate gave its consent to the new Protocol of American Accession to fill the requirement of the five reservations. Unless the amendments are defeated

[1] Similarly, under Art. 6 of the Protocol of American Accession, any future signature of the Protocol of 1920 is declared to be an acceptance of the former Protocol as well.

[2] *Cf. supra*, p. 23 [663].

by the opposition of some state or states, consent to ratification of the 1920 Protocol would be illusory. Since any Senate debate on the Court would almost inevitably involve a consideration of the proposed amendments, it would seem likely that the two issues would not be separated in submission to that body.

APPENDIX I

DOCUMENTS CONCERNING THE COURT

STATES WHICH HAVE SIGNED THE PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

(As of October 1, 1929)

States Signatory	Date of Ratification	States Signatory	Date of Ratification
Abyssinia	July 16, 1926	Irish Free State	Aug. 21, 1926 [3]
Albania	July 13, 1921	Italy	June 20, 1921
Australia	Aug. 4, 1921	Japan	Nov. 16, 1921
Austria	July 23, 1921	Latvia	Feb. 12, 1924
Belgium	Aug. 29, 1921	Liberia	
Bolivia		Lithuania	May 16, 1922
Brazil	Nov. 1, 1921	Luxemburg	
Bulgaria	Aug. 12, 1921	Netherlands	Aug. 6, 1921
Canada	Aug. 4, 1921	New Zealand	Aug. 4, 1921
Chile	July 20, 1928	Nicaragua	
China	May 13, 1922	Norway	Aug. 20, 1921
Colombia		Panama	June 14, 1929
Costa Rica		Paraguay	
Cuba	Jan. 12, 1922	Persia	
Czechoslovakia	Sept. 2, 1921	Peru	
Denmark	June 13, 1921	Poland	Aug. 26, 1921
Dominican Republic [1]		Portugal	Oct. 8, 1921
		Rumania	Aug. 8, 1921
Estonia	May 2, 1923	Salvador	
Finland	April 6, 1922	Serb-Croat-Slovene State	Aug. 12, 1921
France	Aug. 7, 1921	Siam	Feb. 27, 1922
Germany	March 11, 1927	South Africa	Aug. 4, 1921
Great Britain	Aug. 4, 1921	Spain	Aug. 30, 1921
Greece	Oct. 3, 1921	Sweden	Feb. 21, 1921
Guatemala [2]		Switzerland	July 25, 1921
Haiti	Sept. 7, 1921	Uruguay	Sept. 27, 1921
Hungary	Nov. 20, 1925	Venezuela	Dec. 2, 1921
India	Aug. 4, 1921		

Total — 54

[1] National Congress approved the signature December, 1926.

[2] Signed at Geneva, December 17, 1926.

[3] Letter notifying "that the Irish Free State is to be included among those Members of the League of Nations which have ratified."

OTHER STATES TO WHICH THE COURT IS OPEN

Afghanistan [1]
Argentine Republic [2]
Danzig [1]
Ecuador [2]
Egypt [1]
Honduras [2]
Iceland [1]
Liechtenstein [1]
Mexico [1]
Monaco [1]
San Marino [1]
Soviet Union [1]
Turkey [1]
United States [2]

Total — 14

[1] Notified by the Court of the resolution of the Council of the League of Nations of May 17, 1922. It should be noted that the state to which the Court is opened must "undertake to carry out in full good faith the decision or decisions of the Court and not to resort to war against a state complying therewith" (Resolution, par. 1).

[2] Open by reason of membership in the League of Nations or mention in the Annex to the Covenant.

PERMANENT COURT OF INTERNATIONAL JUSTICE

Protocol of Signature [1]

The Members of the League of Nations, through the undersigned, duly authorized, declare their acceptance of the adjoined Statute of the Permanent Court of International Justice, which was approved by a unanimous vote of the Assembly of the League on the 13th December, 1920, at Geneva.

Consequently, they hereby declare that they accept the jurisdiction of the Court in accordance with the terms and subject to the conditions of the above-mentioned Statute.

The present Protocol, which has been drawn up in accordance with the decision taken by the Assembly of the League of Nations on the 13th December, 1920, is subject to ratification. Each Power shall send its ratification to the Secretary-General of the League of Nations; the latter shall take the necessary steps to notify such ratification to the other signatory Powers. The ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The said Protocol shall remain open for signature by the Members of the League of Nations and by the States mentioned in the Annex to the Covenant of the League.

The Statute of the Court shall come into force as provided in the above-mentioned decision.

Executed at Geneva, in a single copy, the French and English texts of which shall both be authentic.

December 16, 1920.

[Here follow signatures of 52 Members of the League of Nations.]

[1] League of Nations, *Treaty Series*, VI, p. 380; XI, p. 404; XV, p. 304; XXIV, p. 152; XXVII, p. 416; XXXIX, p. 165; XLV, p. 96; L, p. 159; LIV, p. 387; LXIX, p. 70; LXXII, p. 452; LXXVIII, p. 435.

OPTIONAL CLAUSE

The undersigned, being duly authorized thereto, further declare, on behalf of their Government, that, from this date, they accept as compulsory, *ipso facto* and without special Convention, the jurisdiction of the Court in conformity with article 36, paragraph 2, of the Statute of the Court, under the following conditions:

[The declarations made by Signatory States are not here reprinted. They may be found in Hudson, *op. cit.*, p. 104, as compiled from *Treaty Series* volumes cited in note 1, p. 81 [721], *supra.*]

STATES WHICH HAVE SIGNED THE OPTIONAL CLAUSE

(As of October 1, 1929)

(Asterisk (*) indicates states bound by the clause)

States Signatory	Date of Ratification [1]
Australia	
* Austria	Mar. 13, 1927
* Belgium	Mar. 10, 1926
Brazil	– –[2]
British Empire	
* Bulgaria	Aug. 12, 1921
Canada	
*[China [3]	– –[2]]
Costa Rica [4]	– –[2]
Czechoslovakia	
* Denmark	Mar. 28, 1926
Dominican Republic	
* Estonia	– –[2]
* Ethiopia	July 16, 1926
* Finland	April 6, 1922
France	
* Germany	Feb. 29, 1928
* Greece	Sept. 12, 1929
Guatemala	
* Haiti	– –[2]
* Hungary	Aug. 13, 1929
India	
Irish Free State	
Italy	
Latvia	
Liberia	
*[Lithuania [3]	– –[2]]
Luxemburg	
* Netherlands	– –[2]
New Zealand	
Nicaragua [4]	
* Norway	Oct. 3, 1921
* Panama	June 14, 1929
Peru	
* Portugal	Oct. 8, 1921
Salvador [4]	– –[2]
Siam	
South Africa	
* Spain	– –[2]
* Sweden	– –[2]
* Switzerland	July 24, 1926
* Uruguay	Sept. 27, 1921

Total — 42

[1] Ratification of the Optional Clause is not required by the document itself.

[2] Ratification not specified and not actually deposited.

[3] Five-year period specified has expired.

[4] Without condition as to ratification, but has not ratified the protocol of signature of the Statute.

STATUTE FOR THE PERMANENT COURT OF INTERNATIONAL JUSTICE, SHOWING AMENDMENTS PROVIDED FOR BY THE PROTOCOL OF SEPTEMBER 14, 1929[1]

Art. 1. A Permanent Court of International Justice is hereby established, in accordance with Article 14 of the Covenant of the League of Nations. This Court shall be in addition to the Court of Arbitration organized by the Conventions of The Hague of 1899 and 1907, and to the special Tribunals of Arbitration to which States are always at liberty to submit their disputes for settlement.

Chapter I

Organization of the Court

Art. 2. The Permanent Court of International Justice shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Art. 3. The Court shall consist of fifteen members: eleven judges and four deputy-judges. The number of judges and deputy-judges may hereafter be increased by the Assembly, upon the proposal of the Council of the League of Nations, to a total of fifteen judges and six deputy-judges.

Amendment

Art. 3. The Court shall consist of fifteen members.

Art. 4. The members of the Court shall be elected by the Assembly and by the Council from a list of persons nominated by the national groups in the Court of Arbitration, in accordance with the following provisions.

[1] The Statute of December 16, 1920, is printed to embody the amendments called for by the annex to the protocol of September 14, 1929, which is printed in League of Nations Document A. 50. 1929. V. 16. These amendments will not in any case come into force before September 1, 1930.

In the case of Members of the League of Nations not represented in the Permanent Court of Arbitration, the list of candidates shall be drawn up by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.[1]

Amendment

The conditions under which a state which has accepted the Statute of the Court but is not a member of the League of Nations, may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the Assembly on the proposal of the Council.

Art. 5. At least three months before the date of the election, he Secretary-General of the League of Nations shall address a written request to the Members of the Court of Arbitration belonging to the states mentioned in the Annex to the Covenant or to the states which join the League subsequently, and to the persons appointed under paragraph 2 of Article 4, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case must the

[1] Article 44 of the convention of The Hague of 1907 for the pacific settlement of international disputes reads as follows:

"Each contracting power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrator.

"The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the contracting powers by the Bureau.

"Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the contracting powers.

"Two or more powers may agree on the selection in common of one or more members.

"The same person can be selected by different powers.

"The members of the Court are appointed for a term of six years. These appointments are renewable.

"Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years."

number of candidates nominated be more than double the number of seats to be filled.

Art. 6. Before making these nominations, each national group is recommended to consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

Art. 7. The Secretary-General of the League of Nations shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible for appointment.

The Secretary-General shall submit this list to the Assembly and to the Council.

	Amendment
Art. 8. The Assembly and the Council shall proceed independently of one another to elect, firstly the judges, then the deputy-judges.	**Art. 8.** The Assembly and the Council shall proceed independently of one another to elect the members of the Court.

Art. 9. At every election, the electors shall bear in mind that not only should all the persons appointed as members of the Court possess the qualifications required, but the whole body also should represent the main forms of civilization and the principal legal systems of the world.

Art. 10. Those candidates who obtain an absolute majority of votes in the Assembly and in the Council shall be considered as elected.

In the event of more than one national of the same Member of the League being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered as elected.

Art. 11. If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Art. 12. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the Assembly and three by the Council, may be formed, at any time, at the request of either the Assembly or the Council, for the purpose of choosing one name for each seat still vacant, to submit to the Assembly and the Council for their respective acceptance.

If the Conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Articles 4 and 5.

If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been appointed shall, within a period to be fixed by the Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the Assembly or in the Council.

In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

Art. 13. The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

Amendment

Art. 13. The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

In the case of the resignation of a member of the Court, the resignation will be addressed to the President of the Court for transmission to the Secretary-General of the League of Nations.

This last[1] notification makes the place vacant.

Art. 14. Vacancies which may occur shall be filled by the same method as that laid down for the first election. A member of the Court elected to replace a member whose period of ap-

Amendment

Art. 14. Vacancies which may occur shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General of the League

[1] The word "last" was included in text adopted by the Assembly, as recommended by the conference of September 4–12, 1929.

pointment had not expired will hold the appointment for the remainder of his predecessor's term.

of Nations shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Council at its next session.

Amendment

Art. 15. Deputy-judges shall be called upon to sit in the order laid down in a list.

This list shall be prepared by the Court and shall have regard firstly to priority of election and secondly to age.

Art. 15. A member of the Court elected to replace a member whose period of appointment has not expired, will hold the appointment for the remainder of his predecessor's term.

Amendment

Art. 16. The ordinary members of the Court may not exercise any political or administrative function. This provision does not apply to the deputy-judges except when performing their duties on the Court.

Any doubt on this point is settled by the decision of the Court.

Art. 16. The members of the Court may not exercise any political or administrative function, nor engage in any other occupation of a professional nature.[1]

Any doubt on this point is settled by the decision of the Court.

Amendment

Art. 17. No member of the Court can act as agent, counsel or advocate in any case of an international nature. This provision only applies to the deputy-judges as regards cases in which they are called upon to exercise their functions on the Court.

Art. 17. No member of the Court may act as agent, counsel or advocate in any case.[2]

No member may participate in the decision of any case in which he has previously taken an active part as agent, counsel or advocate for one of the contesting parties, or as a member

[1] The words "occupation of a professional nature" are, according to the conclusion of the conference of September 4–12, 1929, "to be interpreted in the widest sense, *i.e.*, cover, for example, such an activity as being director of a company."

[2] The Committee of Jurists had specified "case of an international nature."

No member may participate in the decision of any case in which he has previously taken an active part, as agent, counsel or advocate for one of the contesting parties, or as a member of a national or international court, or of a commission of inquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

of a national or international Court, or of a commission of inquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

Art. 18. A member of the Court can not be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

Formal notification thereof shall be made to the Secretary-General of the League of Nations, by the Registrar.

This notification makes the place vacant.

Art. 19. The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Art. 20. Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

Art. 21. The Court shall elect its President and Vice-President for three years; they may be re-elected.

It shall appoint its Registrar.

The duties of Registrar of the Court shall not be deemed incompatible with those of Secretary-General of the Permanent Court of Arbitration.

Art. 22. The seat of the Court shall be established at The Hague.

The President and Registrar shall reside at the seat of the Court.

Amendment

Art. 23. A session of the Court shall be held every year.

Unless otherwise provided by Rules of Court, this session shall begin on the 15th of June, and shall continue for so long as

Art. 23. The Court shall remain permanently in session except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

may be deemed necessary to finish the cases on the list.

The President may summon an extraordinary session of the Court whenever necessary.

Members of the Court whose homes are situated at more than five days' normal journey from The Hague shall be entitled, apart from the judicial vacations, to six months' leave every three years, not including the time spent in traveling.

Members of the Court shall be bound, unless they are on regular leave or prevented from attending by illness or other serious reason duly explained to the President, to hold themselves permanently at the disposal of the Court.

Art. 24. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

If the President considers that for some special reason one of the members of the Court should not sit on a particular case, he shall give him notice accordingly.

If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Amendment

Art. 25. The full Court shall sit except when it is expressly provided otherwise.

If eleven judges can not be present, the number shall be made up by calling on deputy-judges to sit.

If, however, eleven judges are not available, a quorum of nine judges shall suffice to constitute the Court.

Art. 25. The full Court shall sit except when it is expressly provided otherwise.

Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

Provided always that a quorum of nine judges shall suffice to constitute the Court.

Art. 26. Labor cases, particularly cases referred to in Part XIII (Labor) of the treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article 25. On all occasions the judges will be assisted by four technical assessors sitting with them, but without the right to vote, and chosen with a view to insuring a just representation of the competing interests.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favor of a judge chosen by the other party in accordance with Article 31.

The technical assessors shall be chosen for each particular

Amendment

Art. 26. Labor cases, particularly cases referred to in Part XIII (Labor) of the treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the full Court will sit. In both cases, the judges will be assisted by four technical assessors sitting with them, but without the right to vote, and chosen with a view to insuring a just representation of the competing interests.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of "Assessors for Labor cases" composed of two persons nominated by each Member of the League of Nations and an equivalent number nominated by the Governing Body of the Labor Office. The Governing Body will nominate, as to one-

case in accordance with rules of procedure under Article 30 from a list of "Assessors for Labor cases" composed of two persons nominated by each Member of the League of Nations and an equivalent number nominated by the Governing Body of the Labor Office. The Governing Body will nominate, as to one-half, representatives of the workers, and as to one-half, representatives of employers from the list referred to in Article 412 of the treaty of Versailles and the corresponding Articles of the other Treaties of Peace.

In Labor cases the International Labor Office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that Office shall receive copies of all the written proceedings.

Art. 27. Cases relating to transit and communications, particularly cases referred to in Part XII (Ports, Waterways and Railways) of the treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the

half, representatives of the workers, and as to one-half, representatives of employers from the list referred to in Article 412 of the treaty of Versailles and the corresponding articles of the other Treaties of Peace.

Recourse may always be had to the summary procedure provided for in Article 29, in the cases referred to in the first paragraph of the present article, if the parties so request.

In Labor cases the International Office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that Office shall receive copies of all the written proceedings.

Amendment

Art. 27. Cases relating to transit and communications, particularly cases referred to in Part XII (Ports, Waterways and Railways) of the treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the

provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article 25. When desired by the parties or decided by the Court, the judges will be assisted by four technical assessors sitting with them, but without the right to vote.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favor of a judge chosen by the other party in accordance with Article 31.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of "Assessors for Transit and Communications cases" composed of two persons nominated by each Member of the League of Nations.

provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the full Court will sit. When desired by the parties or decided by the Court, the judges will be assisted by four technical assessors sitting with them, but without the right to vote.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of "Assessors for Transit and Communication Cases" composed of two persons nominated by each Member of the League of Nations.

Recourse may always be had to the summary procedure provided for in Article 29, in the cases referred to in the first paragraph of the present article, if the parties so request.

Art. 28. The special chambers provided for in Articles 26 and 27 may, with the consent of the parties to the dispute, sit elsewhere than at The Hague.

Amendment

Art. 29. With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of three judges who, at the request of the contesting parties, may hear and determine cases by summary procedure.

Art. 29. With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges who, at the request of the contesting parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit.

Art. 30. The Court shall frame rules for regulating its procedure. In particular, it shall lay down rules for summary procedure.

Amendment

Art. 31. Judges of the nationality of each contesting party shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties only, the other party may select from among the deputy-judges a judge of its nationality, if there be one. If there should not be one, the party may choose a judge, preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

If the Court includes upon the Bench no judge of the nationality of the contesting parties, each of these may proceed to select or choose a judge as provided in the preceding paragraph.

Art. 31. Judges of the nationality of each of the contesting parties shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties, the other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

If the Court includes upon the Bench no judge of the nationality of the contesting parties, each of these parties may proceed to select a judge as provided in the preceding paragraph.

The present provision shall

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected or chosen as laid down in paragraphs 2 and 3 of this Article shall fulfil the conditions required by Articles 2, 16, 17, 20, 24 of this Statute. They shall take part in the decision on an equal footing with their colleagues.

apply to the case of Articles 26, 27 and 29. In such cases the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such or if they are unable to be present, to the judges specially appointed by the parties.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected as laid down in paragraphs 2, 3 and 4 of this article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20 and 24 of this Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Art. 32. The judges shall receive an annual indemnity to be determined by the Assembly of the League of Nations upon the proposal of the Council. This indemnity must not be decreased during the period of a judge's appointment.

The President shall receive a special grant for his period of office, to be fixed in the same way.

Amendment

Art. 32. The members of the Court shall receive an annual salary.

The President shall receive a special annual allowance.

The Vice-President shall receive a special allowance for every day on which he acts as President.

The judges appointed under Article 31, other than members of the Court, shall receive an

The Vice-President, judges and deputy-judges shall receive a grant for the actual performance of their duties, to be fixed in the same way.

Traveling expenses incurred in the performance of their duties shall be refunded to judges and deputy-judges who do not reside at the seat of the Court.

Grants due to judges selected or chosen as provided in Article 31 shall be determined in the same way.

The salary of the Registrar shall be decided by the Council upon the proposal of the Court.

The Assembly of the League of Nations shall lay down, on the proposal of the Council, a indemnity for each day on which they sit.

These salaries, allowances and indemnities shall be fixed by the Assembly of the League of Nations on the proposal of the Council.[1] They may not be decreased during the term of office.

The salary of the Registrar shall be fixed by the Assembly on the proposal of the Court.

Regulations made by the Assembly shall fix the conditions under which retiring pensions may be given to members of the Court and to the Registrar,[2] and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.

[1] On September 13, 1929, the Council of the League of Nations adopted the following resolution, the substance of which had been proposed in the report of the Committee of Jurists:

"With reference to Art. 32 of the Court's Statute, the Council agrees with the suggestions of the Supervisory Commission and proposes that, subject to the entry into force of the amendments proposed in the Court's Statute, the Assembly should fix the salaries of the members of the Court from January 1, 1931, as follows:

		Dutch florins
"*President:*	Annual salary	45,000
	Special allowance	15,000
"*Vice-President:*	Annual salary	45,000
	Allowance of 100 florins for each day on which he acts as President, up to a maximum of	10,000
"*Members:*	Annual salary	45,000
"*Judges referred to in Art. 31 of the Statute:*	Allowance of 100 florins for each day of duty, plus a daily subsistence allowance of 50 florins."	

Appropriate Assembly action will take place in connection with the adoption of the budget for the financial year 1931.

[2] The Assembly of the League of Nations on September 14, 1929, adopted a report approving regulations for the repayment of traveling expenses to the members and to the registrar of the Court as recommended by the Supervisory Commission.

The report recorded that Art. 32 of the Statute as then in force provided that the regulation concerning retiring pensions of judges was to be fixed by the Assembly on the proposal of the Council. The article as amended provides for the determination of the regulations by the Assembly. In 1929, as the Council had not submitted

special regulation fixing the conditions under which retiring pensions may be given to the personnel of the Court.

The above salaries, indemnities and allowances shall be free of all taxation.

Art. 33. The expenses of the Court shall be borne by the League of Nations, in such a manner as shall be decided by the Assembly upon the proposal of the Council.

Chapter II

Competence of the Court

Art. 34. Only States or Members of the League of Nations can be parties in cases before the Court.

Art. 35. The Court shall be open to the Members of the League and also to states mentioned in the Annex to the Covenant.

The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Council, but in no case shall such provisions place the parties in a position of inequality before the Court.

When a state which is not a Member of the League of Nations is a party to a dispute, the Court will fix the amount which that party is to contribute toward the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

Art. 36. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force.

The Members of the League of Nations and the states mentioned in the Annex to the Covenant may, either when signing or ratifying

a proposal, the Assembly did not act upon a revision of the regulations regarding retiring pensions proposed by the Committee of Jurists and reading as follows:

"The payment of a pension shall not begin until the person entitled to such pension has reached the age of 65. Should, however, the person entitled to a pension, before attaining that age, reach the end of his term of office without being re-elected, his pension may, by a decision of the Court, be made payable to him, in whole or part, as from the date on which his functions cease."

However, the Supervisory Commission in its session of June 21–25, 1929, proposed the following text:

"The payment of a pension shall not begin until the person entitled to such pension has reached the age of 65. In certain exceptional cases, however, the pension may, by a decision of the Court, be made payable in whole or in part to persons entitled thereto who have not reached that age."

the Protocol to which the present Statute is adjoined, or at a later moment, declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning:

(*a*) The interpretation of a Treaty;
(*b*) Any question of International Law;
(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Art. 37. When a treaty or convention in force provides for the reference of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

Art. 38. The Court shall apply:

(1) International conventions, whether general or particular, establishing rules expressly recognized by the contesting States;
(2) International custom, as evidence of a general practice accepted as law;
(3) The general principles of law recognized by civilized nations;
(4) Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.[1]

This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

Chapter III

Procedure

Art. 39. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment will be delivered in French. If the

[1] A proposed amendment affects the French text only; see Committee Report, p. 118 [758].

parties agree that the case shall be conducted in English, the judgment will be delivered in English.

In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court will be given in French and English. In this case the Court will at the same time determine which of the two texts shall be considered as authoritative.[1]

	Amendment
The Court may, at the request of the parties, authorize a language other than French or English to be used.	The Court may, at the request of any party, authorize a language other than French or English to be used.

Art. 40. Cases are brought before the Court, as the case may be, either by the notification of the special agreement, or by a written application addressed to the Registrar. In either case the subject of the dispute and the contesting parties must be indicated.

The Registrar shall forthwith communicate the application to all concerned.

	Amendment
He shall also notify the Members of the League of Nations through the Secretary-General.	He shall also notify the Members of the League of Nations through the Secretary-General, and also any States entitled to appear before the Court.

Art. 41. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to reserve the respective rights of either party.

Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and the Council.

[1] The Tenth Assembly of the League of Nations on September 14, 1929, adopted the following:

"The Assembly associates itself with the following recommendation adopted by the Conference:

"'The Conference recommends that, in accordance with the spirit of Arts. 2 and 39 of the Statute of the Court, the candidates nominated by the national groups should possess recognized practical experience in international law and that they should be at least able to read both the official languages of the Court and to speak one of them; it also considers it desirable that to the nominations there should be attached a statement of the careers of the candidates justifying their candidature.'"

Art. 42. The parties shall be represented by agents.

They may have the assistance of counsel or advocates before the Court.

Art. 43. The procedure shall consist of two parts: written and oral.

The written proceedings shall consist of the communication to the judges and to the parties of cases, counter-cases and, if necessary, replies; also all papers and documents in support.

These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party.

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

Art. 44. For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

	Amendment
Art. 45. The hearing shall be under the control of the President or, in his absence, of the Vice-President; if both are absent, the senior judge shall preside.	**Art. 45.** The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.[1]

Art. 46. The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Art. 47. Minutes shall be made at each hearing, and signed by the Registrar and the President.

These minutes shall be the only authentic record.

Art. 48. The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

[1] The amendment is solely an improved version of the English text.

Art. 49. The Court may, even before the hearing begins, call upon the agents to produce any document, or to supply any explanations. Formal note shall be taken of any refusal.

Art. 50. The Court may, at any time, intrust any individual, body, bureau, commission or other organization that it may select, with the task of carrying out an inquiry or giving an expert opinion.

Art. 51. During the hearing, any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Art. 52. After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Art. 53. Whenever one of the parties shall not appear before the Court, or shall fail to defend his case, the other party may call upon the Court to decide in favor of his claim.

The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Art. 54. When, subject to the control of the Court, the agents, advocates and counsel have completed their presentation of the case, the President shall declare the hearing closed.

The Court shall withdraw to consider the judgment.

The deliberations of the Court shall take place in private and remain secret.

Art. 55. All questions shall be decided by a majority of the judges present at the hearing.

In the event of an equality of votes, the President or his deputy shall have a casting vote.

Art. 56. The judgment shall state the reasons on which it is based.

It shall contain the names of the judges who have taken part in the decision.

Art. 57. If the judgment does not represent in whole or in part the unanimous opinion of the judges, dissenting judges are entitled to deliver a separate opinion.

Art. 58. The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

Art. 59. The decision of the Court has no binding force except between the parties and in respect of that particular case.

Art. 60. The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Art. 61. An application for revision of a judgment can be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

The proceedings for revision will be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

The application for revision must be made at latest within six months of the discovery of the new fact.

No application for revision may be made after the lapse of ten years from the date of the sentence.

Art. 62. Should a State consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene as a third party.

It will be for the Court to decide upon this request.

Art. 63. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Art. 64. Unless otherwise decided by the Court, each party shall bear its own costs.

Present Rules of Court

[The proposed amendments to the Statute are adaptations from the following articles of the Rules of Court:]

Art. 72. Questions upon which the advisory opinion of the Court is asked shall be laid

Amendment to Statute

CHAPTER IV

Advisory Opinions

Art. 65. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a

before the Court by means of a written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required, and shall be accompanied by all documents likely to throw light upon the question.

Art. 73. 1. The Registrar shall forthwith give notice of the request for an advisory opinion to the members of the Court, to the Members of the League of Nations, through the Secretary-General of the League, and to any states entitled to appear before the Court.

The Registrar shall also, by means of a special and direct communication, notify any Member of the League or state admitted to appear before the Court or international organization considered by the Court (or, should it not be sitting, by the President) as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required, and shall be accompanied by all documents likely to throw light upon the question.

Art. 66. The Registrar shall forthwith give notice of the request for an advisory opinion to the Members of the League of Nations, through the Secretary-General of the League, and to any states entitled to appear before the Court.

The Registrar shall also, by means of a special and direct communication, notify any Member of the League or State admitted to appear before the Court or international organization considered by the Court (or, should it not be sitting, by the President) as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

Should any Member or state referred to in the first paragraph have failed to receive the com-

Should any state or Member referred to in the first paragraph have failed to receive the communication specified above, such state or Member may express a desire to submit a written statement, or to be heard; and the Court will decide.

2. States, Members and organizations having presented written or oral statements or both shall be admitted to comment on the statements made by other states, Members or organizations, in the form, to the extent and within the time-limits which the Court or, should it not be sitting, the President shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states, Members and organizations having submitted similar statements.

Art. 74. Advisory opinions shall be read in open Court, notice having been given to the Secretary-General of the League of Nations and to the representatives of states, of Members of the League and of international organizations immediately concerned. . . . [1]

munication specified above, such Member or state may express a desire to submit a written statement, or to be heard; and the Court will decide.

Members, States and organizations having presented written or oral statements or both shall be admitted to comment on the statements made by other Members, States or organizations in the form, to the extent and within the time-limits which the Court or, should it not be sitting, the President shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to Members, States and organizations having submitted similar statements.

Art. 67. The Court shall deliver its advisory opinions in open Court, notice having been given to the Secretary-General of the League of Nations and to the representatives of Members of the League, of states and of international organizations immediately concerned.

Art. 68. In the exercise of its advisory functions, the Court shall further be guided by the provisions of the Statute which apply in contentious cases to the extent to which it recognizes them to be applicable. [2]

[1] The remainder of Art. 74 of the Rules of Court stipulates duties of the Registrar.

[2] *Cf.* Committee Report, League Doc. A. 50. 1929. V. 16, p. 3.

II. REPORT ADOPTED BY THE COMMITTEE OF JURISTS ON THE QUESTION OF THE AMENDMENT OF THE STATUTE, MARCH 19, 1929 [1]

On September 20, 1928, the Assembly of the League of Nations adopted the following resolution:

The Assembly,

Considering the ever increasing number of matters referred to the Permanent Court of International Justice;

Deeming it advisable that, before the renewal of the term of office of the members of the Court in 1930, the present provisions of the Statute of the Court should be examined with a view to the introduction of any amendments which experience may show to be necessary;

Draws the Council's attention to the advisability of proceeding, before the renewal of the term of office of the members of the Permanent Court of International Justice, to the examination of the Statute of the Court with a view to the introduction of such amendments as may be judged desirable and to submitting the necessary proposals to the next ordinary session of the Assembly.

In pursuance of this resolution the Council decided on December 13 and 14, 1928, to set up a committee consisting of Jonkheer van Eysinga, M. Fromageot, M. Gaus, Sir Cecil Hurst, M. Ito, M. Politis, M. Raestad, M. Rundstein, M. Scialoja, M. Urrutia and a jurist of the United States of America, to be appointed by the President of the Council and the Rapporteur, who selected M. Elihu Root. The Council further invited the President and the Vice-President of the Court, M. Anzilotti and M. Huber and the chairman of the Supervisory Commission, M. Osusky, to participate in the work of the committee. M. Pilotti was added to the committee on March 9, 1929.

The Council Rapporteur had pointed out that, having regard to the terms of the Assembly's decision, the committee should have wide terms of reference, namely, "to report what amendments appear desirable in the various provisions of the Court's Statute." He further stated "that the committee would, of course, be competent to examine such suggestions as may reach it, during its work,

[1] Reprinted from Document C. 142, M. 52. 1929, V. 4, p. 2.

from authoritative sources" and "that it would fall to the committee to ascertain the opinion of the Permanent Court of International Justice in respect of the working of the Court."

As may be seen from the discussion in the Assembly, the latter did not contemplate recasting completely the Statute of the Court; it had merely in view the possibility of supplementing or improving the Statute in the light of the experience already acquired.

It is in this spirit that the committee, which met at Geneva on March 11, 1929, under the chairmanship of M. Scialoja, has pursued its work, which was completed on March 19 under the chairmanship of Jonkheer van Eysinga, the vice-chairman.

In the proposals which the committee has the honor to submit to the Council, it has been in general actuated by the desire to give the States full assurance that the Permanent Court of International Justice established by the League of Nations is a real *judicial* body which is constantly at their disposal for the purpose of hearing and determining their disputes and which possesses alike the necessary juristic competence and experience of international affairs.

It would appear that effect can be given to some of the committee's proposals by means of *vœux* or recommendations; other proposals would appear to call for an amendment of the existing text of the Statute.

In the first place, the committee examined the qualifications which members of the Court should possess in order to satisfy the expectations of Governments in regard to the Permanent Court of International Justice. These conditions will be found in Art. 2 of the Statute. The committee has thought that it would be desirable to mention, in addition to recognized competence in international law which is mentioned in Art. 2 of the Statute, the requirement of practical experience in this sphere.

Similarly, the national groups, when nominating their candidates in accordance with Art. 5, should attach to each nomination a statement of the career of the person nominated, showing that he possesses the required qualifications.

Further, as the official languages of the Court are French and English, it appears essential that the judges should be at least able to read these languages and to speak one of them. Though this may be self-evident, the committee has thought that it would be desirable to draw the special attention of the national groups to the point.

The committee is of opinion that, despite their importance, none of these three questions necessitates a modification of the existing

texts, and that it would be sufficient to proceed by way of a recommendation, as follows:

"*The Committee decides to advise the Assembly to adopt the following recommendation:*

" '*The Secretary-General, in issuing the invitations provided for in Art. 5 of the Statute, will request the national groups to satisfy themselves that the candidates nominated by them possess recognized practical experience in international law and that they are at least able to read both the official languages of the Court and to speak one of them; he will recommend the groups to attach to each nomination a statement of the career of the person nominated showing that he possesses the required qualifications.*' "

On the other hand it appeared necessary to deal with the following questions by means of amendments:

1. Composition of the Court

Experience has shown that deputy-judges have been called upon almost constantly to sit on the Court, the reason being that the majority of them are resident in Europe and were consequently more readily available than judges belonging to other continents; this has tended to give the Europeans a privileged position. On the other hand, as the deputy-judges have in fact been placed on a footing of equality with the ordinary judges in regard to the work performed, without being subject to the same disabilities, the difference in treatment in this latter respect has not been without its disadvantages. Finally, a further difference between the two classes of judges — that relating to their emoluments — has actually disappeared, since the allowances granted to deputy-judges have placed them in a situation almost equal to that of the ordinary judges.

Practical experience thus points to assimilation of the two classes of judges and accordingly suggests the desirability of abolishing the deputy-judges and replacing them by an equal number of ordinary judges.

The committee proposes, therefore, to increase the number of ordinary judges from eleven to fifteen and to omit all mention of deputy-judges in Art. 3. The disappearance of the deputy-judges naturally involves consequential amendment of various articles in the Statute in which they are mentioned. These changes will be indicated below in connection with Arts. 8, 15, 16, 17, 25, 31 and 32. To avoid the risk of an exaggeration which might cause mis-

conception, it also appeared desirable to omit in the new text of Art. 3 the reference to a possible increase of the members of the Court above the number of fifteen.

As a result, the new text of Art. 3 would be as follows:

The Court shall consist of fifteen members.

2. Election of Judges

As already stated the text of Art. 8 will, as a result of the disappearance of the deputy-judges, read as follows:

The Assembly and the Council shall proceed independently of one another to elect the members of the Court.

3. Resignation of a Judge

The resignation of a judge is not provided for in the present existing text of the Statute. The question has, however, arisen in practice, and doubts have been felt as to the procedure to be adopted in such cases. The committee considered that it would be desirable to supply the omission and to take the view that, once a resignation has been transmitted to the League of Nations, it must be regarded as final; but that, nevertheless, the resignation should be transmitted to the League by the President of the Court in order that he may, if desirable, be able to satisfy himself that the decision of the judge concerned is irrevocable.

Consequently, the committee proposes to add two paragraphs to Art. 13, which would read as follows:

The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

In the case of the resignation of a member of the Court, the resignation will be addressed to the President of the Court for transmission to the Secretary-General of the League of Nations.

This notification makes the place vacant.

4. Filling of Occasional Vacancies

Art. 14 of the Statute merely provides that vacancies which may occur shall be filled by the same method as that laid down for the renewal of the entire Court. Experience has shown that there is

a serious disadvantage in waiting for the annual meeting of the Assembly before filling a vacancy, as this may cause a delay of as much as fifteen months. During this period the Court might be deprived of its essential characteristic — that of a body representative of the various juridical systems — while at the same time the uninterrupted and regular working of this high tribunal might be rendered more difficult.

To remedy this defect the committee has thought it desirable to establish a somewhat elastic system which, especially in cases deemed by the Council of the League of Nations to be urgent, would allow of the filling even of a single vacancy within the shortest possible space of time. Under this system the Secretary-General of the League of Nations would address the prescribed request, within one month after the occurrence of any vacancy, to the national groups, in accordance with Art. 5, and the Council would be in a position at its next session to decide whether the election was of a sufficiently urgent character to necessitate the convening of the Assembly in extraordinary session before its ordinary September session.

The system would be embodied in the following new draft of Art. 14:

Vacancies which may occur shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General of the League of Nations shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Art. 5, and the date of the election shall be fixed by the Council at its next session.

5. New Article 15

As Art. 15 of the Statute disappears with the disappearance of the deputy-judges, the committee proposes to make a new Art. 15 out of the unaltered part of Art. 14, reading as follows:

A member of the Court elected to replace a member whose period of appointment has not expired, will hold the appointment for the remainder of his predecessor's term.

6. Functions and Occupations Incompatible with Membership of the Court

In accordance with the guiding idea of the committee's work, namely, that the Court, by its composition and its operation, should inspire in the states the highest possible degree of confidence, the

committee has thought that it would be necessary to amplify the rules of Art. 16 as to what functions and occupations are incompatible with membership of the Court and for this purpose to indicate clearly that the members of the Court must not only refrain from exercising any political or administrative function but also may not engage in any other occupation of a professional nature. Naturally, it would be permissible for members of the Court to be included on the list of members of the Permanent Court of Arbitration and to exercise, if their duties on the Court allowed them the necessary leisure, the functions of arbitrators or conciliators, provided always that the instrument under which they were appointed did not provide for a reference to the Court following upon the arbitration or upon the failure of the conciliation proceedings.

With the disappearance of the deputy-judges, the second sentence in Par. 1 of Art. 16 naturally disappears as well.

Art. 16 would thus read as follows:

The members of the Court may not exercise any political or administrative function, nor engage in any other occupation of a professional nature.

Any doubt on this point is settled by the decision of the Court.

7. Article 17

The second sentence of the first paragraph of Art. 17 referring to deputy-judges becomes meaningless and is to be omitted.

At this point, the committee feels it should observe that while it is stated that no member of the Court can act as agent, counsel or advocate in any case of an international nature, it will not henceforth, in view of the new Art. 16, be possible to infer *a contrario* that he is free to exercise the said functions in a case which is national in character. It has not seemed necessary to redraft the text of the second paragraph.

The same consideration applies to the end of the second paragraph, which states that no member of the Court may participate personally in any case in which he has previously taken an active part as agent, counsel or advocate for one of the contesting parties, or as a member of a national or international court, or of a commission of inquiry, or in any other capacity. Obviously, the same would hold good as to their participation in a commission of conciliation; this appeared to be indicated clearly enough in the expression "or in any other capacity."

Art. 17 would therefore read as follows:

No member of the Court may act as agent, counsel or advocate in any case of an international nature.

No member may participate in the decision of any case in which he has previously taken an active part as agent, counsel or advocate for one of the contesting parties, or as a member of a national or international Court, or of a commission of inquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

8. Permanent Functioning of the Court

Under the system at present laid down, the Court holds one session annually, beginning on June 15, and it is convened, in exceptional cases, in extraordinary session when circumstances so require.

In practice, the Court has often been obliged, on account of the increase in the cases referred to it, to hold several extraordinary sessions annually. In so doing, it has occasionally encountered serious practical difficulties. The repeated holding of extraordinary sessions has, in this way, tended, in fact, to bring the Court nearer to that permanent character which its title denotes, and which its promoters had contemplated in order to advance the progress of international justice.

The committee accordingly considers that it is desirable to bring the written rules into harmony with the facts and to indicate, in a new draft of Art. 23, a more regular working of the Court by providing, in imitation of national Courts, for a real international judicial year. It therefore proposes to state that the Court shall, in principle, remain constantly in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

On the other hand, in order to enable members of the Court whose ordinary residence is in a country at a considerable distance from its seat, to return occasionally to their homes during their term of office, it is suggested that they should be granted the right to six months' leave every three years in addition to the ordinary vacations.

Apart from exceptional cases, such as that of illness or other good reason for absence, the judges must be permanently at the disposal of the Court.

It is to be understood that this principle applies even during the judicial vacations, in the sense that it will be for the Court, when

fixing the length of the vacation, to provide for the possibility of convening at The Hague, in an urgent case, such a number of judges as would be necessary to allow it to discharge its duties.

It would also be for the Court to provide in its Rules for the organization of a vacations procedure for the cases in which a full meeting of the Court would not be necessary.

Art. 23 would accordingly be redrafted as follows:

The Court shall remain permanently in session except during the judicial vacations, the dates and duration of which shall be fixed by the Court at the end of each year for the following year.

Members of the Court whose homes are situated at more than five days' normal journey from The Hague shall be entitled, apart from the judicial vacations, to six months' leave every three years.

Members of the Court shall be bound, unless they are on regular leave or prevented from attending by illness or other serious reason duly explained to the President, to hold themselves permanently at the disposal of the Court.

9. Manner of Forming the Court

As a result of the disappearance of the deputy-judges the present Par. 2 of Art. 25 must be deleted.

The committee proposes to replace it by a provision which would enable judges, when there is a heavy cause-list, to sit in turn in order to insure the prompt dispatch of business and would at the same time make it possible to remove the disadvantages that might arise from the cooperation in one and the same case of fifteen members of the Court.

Under this provision the Court would have the power to provide in its Rules that, according to circumstances and in rotation, a judge or judges might be dispensed from sitting.

The intention of the committee has of course been that the right just mentioned should in no case be so exercised as to give grounds for any suspicion that the Court has in a given case been specially composed for the purpose of affecting the decision of the case.

The deletion of Par. 2 of Art. 25 necessarily involves the redrafting of Par. 3. There is no longer any point in providing that a certain number of judges must be available since, as previously stated, all judges are in principle constantly at the disposal of the Court. It is therefore sufficient to retain the essential sentence in the third paragraph relating to the quorum.

The new Art. 25 would be worded as follows:

The full Court shall sit except when it is expressly provided otherwise.

Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

Provided always that a quorum of nine judges shall suffice to constitute the Court.

10. Special Chamber for Labor Cases

The redrafting of Art. 25 involves a change in Par. 2 of Art. 26, which states that the Court will sit with the number of judges provided for in Art. 25. It should now be said that the full Court will sit.

In the next sentence of the same paragraph, the committee is of opinion that, for the sake of clearness, it is necessary to read "In both cases," that is to say, the cases which are referred to, instead of "on all occasions," because, as is suggested later on, the summary procedure without the assistance of the technical assessors becomes possible in labor cases.

Par. 3 of Art. 26 should be deleted in consequence of the modification proposed later in Art. 31 in regard to national judges.

The committee would suggest replacing this paragraph by inserting, as the last paragraph but one of Art. 26, a stipulation allowing the parties, should they so desire, to resort to the summary procedure provided for in Art. 29.

It is the committee's intention that, whenever resort is had to this right, the Court constituted as a chamber for summary procedure should consist of five judges only, as will be stated later in connection with Art. 29, without the presence of technical assessors.

Art. 26 would accordingly be drafted as follows:

Labor cases, particularly cases referred to in Part XIII (Labor) of the treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Art. 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this Chamber. In the absence of any such demand, the full Court will sit. In both cases the judges will

be assisted by four technical assessors sitting with them, but without the right to vote and chosen with a view to insuring a just representation of the competing interests.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Art. 30 from a list of "Assessors for Labor Cases" composed of two persons nominated by each Member of the League of Nations and an equivalent number nominated by the Governing Body of the Labor Office. The Governing Body will nominate, as to one-half, representatives of the workers and as to one-half, representatives of employers from the list referred to in Art. 412 of the treaty of Versailles and the corresponding articles of the other Treaties of Peace.

Recourse may always be had to the summary procedure provided for in Art. 29, in the cases referred to in the first paragraph of the present article, if the parties so request.

In labor cases the International Office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that Office shall receive copies of all the written proceedings.

11. Special Chamber for Transit and Communications Cases

The committee considered whether it might not be well to delete Art. 27, seeing that no application has yet been received and that in the opinion of certain persons it is unlikely that any will ever be received. Nevertheless, the committee thought it preferable to retain the article, modifying it, however, in the same way as Art. 26, *i.e.*, by substituting in Par. 2 the words "the full Court will sit" for the present text "the Court will sit with the number of judges provided for under Art. 25;" by omitting paragraph 3; and, finally, by inserting as the last paragraph of Art. 27 the same new provision as is contained in the previous article with regard to summary procedure.

The new draft of Art. 27 would therefore be as follows:

Cases relating to transit and communications, particularly cases referred to in Part XII (Ports, Waterways and Railways) of the treaty of Versailles and the corresponding portions of the other Treaties of Peace shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Art. 9. In addition, two judges shall be selected for the purpose of

replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the full Court will sit. When desired by the parties or decided by the Court, the judges will be assisted by four technical assessors sitting with them, but without the right to vote.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Art. 30 from a list of "Assessors for Transit and Communications Cases" composed of two persons nominated by each Member of the League of Nations.

Recourse may always be had to the summary procedure provided for in Art. 29, in the cases referred to in the first paragraph of the present article, if the parties so request.

12. Chamber for Summary Procedure

As indicated below in connection with Art. 31, the committee considered that, as the system of national judges exists, it should apply to the Chamber for Summary Procedure as well as to any other form of the Court. It will, therefore, be necessary to bring Art. 29 into harmony with the new draft of Art. 31 and for this purpose to make the Chamber for Summary Procedure consist of five judges instead of three. Provision must also be made, as in the case of the other special chambers (Arts. 26 and 27), for the selection of two judges to replace a judge who finds it impossible to sit.

Art. 29 would therefore read as follows:

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges who, at the request of the contesting parties, may hear and determine cases by summary procedure. In addition two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit.

13. National Judges

The committee considered that it was no part of its duty to deal with the institution of national judges, which is regarded by certain states as one of the essential principles of the organization of the Court.

It also considered that, in view of the importance which certain states attach to this system, its application should not be limited, as is at present done in Art. 31, to the single case in which the full Court sits, but that, on the contrary, it should be extended to the Court in all its forms.

With this object, the committee proposes to insert as a fourth

paragraph in Art. 31 a provision making the system of national judges apply to the Special Chambers for Labor, for Communications and Transit and for Summary Procedure (Arts. 26, 27 and 29).

Moreover, the disappearance of the deputy-judges necessitates redrafting Par. 2 of Art. 31. There must be a slight change in Par 2 and changes of minor importance in Pars. 3 and 5 of Art. 31.

The new Art. 31 would read as follows:

Judges of the nationality of each of the contesting parties shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties, the other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Arts. 4 and 5.

If the Court includes upon the Bench no judge of the nationality of the contesting parties, each of these parties may proceed to select a judge as provided in the preceding paragraph.

The present provision shall apply to the case of Arts. 26, 27 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the Chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such or if they are unable to be present, to the judges specially appointed by the parties.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected as laid down in Pars. 2, 3 and 4 of this article shall fulfil the conditions required by Arts. 2, 17, Par. 2, 20 and 24 of this Statute. They shall take part in the decision on terms of complete equality with their colleagues.

14. Salaries of Judges

The permanent character of the Court having been more firmly established, and the requirements as to the selection of judges and the rules regarding the other occupations which they may not follow concurrently having been more clearly stated, it has been thought expedient to abandon the mixed system at present in force, which consists in an annual indemnity and allowances for each day of service. Payment for the services and subsistence expenses of members of the Court at The Hague will now take the form of a fixed inclusive annual salary which, in fact, will correspond approximately to the maximum obtainable by the judges under the present system.

This will be a simplification of a system which at present is particularly complicated.

Accordingly, the committee proposes to redraft Art. 32 completely and to submit to the Assembly a draft resolution to be substituted for the resolution of December 18, 1920, concerning the salaries of members of the Court.

It has not, however, been thought expedient to include in the annual salary the traveling expenses of members attending the Court or their traveling expenses while on duty.

In the committee's view, it is for the Assembly to lay down special regulations on this point. The committee considers, however, that the members of the Court and the Registrar should, apart from journeys made on duty, be reimbursed for only one journey every year from the seat of the Court to their homes and back again.

The final paragraph of the present Art. 32 deals with retiring pensions for the personnel of the Court. It refers to a special regulation which was made by the Assembly in 1924. This regulation will require revision; the Supervisory Commission will lay the matter before the Assembly, but on account of certain proposed amendments to the Statute of the Court, of which a brief summary was given at the head of this section, the committee is of opinion that the Assembly's attention should be specially drawn to the desirability of redrafting Par. 5 of Art. 1 of the 1924 regulation in the terms indicated in the attached draft resolution as to pensions.

The new text of Art. 32 and the accompanying draft resolutions, referred to above, would be as follows:

The members of the Court shall receive an annual salary.

The President shall receive a special annual allowance.

The Vice-President shall receive a special allowance for every day on which he acts as President.

The judges appointed under Art. 31, other than members of the Court, shall receive an indemnity for each day on which they sit.

These salaries, allowances and indemnities shall be fixed by the Assembly of the League of Nations on the proposal of the Council. They may not be decreased during the term of office.

The salary of the Registrar shall be fixed by the Assembly on the proposal of the Court.

Regulations made by the Assembly shall fix the conditions under which retiring pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.

The above salaries, indemnities and allowances shall be free of all taxation.

Draft resolution concerning salaries:

In accordance with the provisions of Art. 32 of the Statute, the Assembly of the League of Nations fixes the salaries, allowances and indemnities of the members and judges of the Permanent Court of International Justice as follows:

President:	Dutch florins
Annual salary	45,000
Special indemnity	15,000
Vice-President:	
Annual salary	45,000
Allowance for each day on duty (100 x 100)	10,000 (maximum)

Members:	Dutch florins
Annual salary	45,000
Judges referred to in Article 31 of the Statute:	
Indemnity for each day on duty	100
Allowance for each day of attendance	50

Draft resolution amending Par. 5 of Art. 1 of the regulation regarding pensions.[1]

The payment of a pension shall not begin until the person entitled to such pension has reached the age of 65. Should, however, the person entitled to a pension, before attaining that age, reach the end of his term of office without being re-elected, his pension may, by a decision of the Court, be made payable to him, in whole or part, as from the date on which his functions cease.

15. Contributions of States not Members of the League of Nations

The committee does not propose any amendment to Art. 35, but thinks that an observation is called for on paragraph 3 of that article.

In view of the third reservation attached by the United States to their accession to the Protocol of Signature, Par. 3 of Art. 35 should not apply to the special case of the United States, if they accede to the Court Statute.

[1] The original paragraph reads as follows:

"The payment of a pension shall not begin until the person entitled to such pension has reached the age of 65. Nevertheless, in exceptional cases and by a special decision of the Court, in consideration of the state of health or the means of the beneficiary, pensions may be paid to such beneficiary before he reaches the age of 65." (*League of Nations, Resolutions and Recommendations Adopted by the Assembly during its Fifth Session*, p. 36 (*Official Journal*, Spec. Supp. No. 21)).

16. Amendment to No. 4 of Article 38

The committee has only a very slight and purely formal amendment to propose to No. 4 of Art. 38. It consists in restoring in the French text a few words which appear in the English text. In the said No. 4 of Art. 38, after the words "*la doctrine des publicistes les plus qualifiés,*" the words "*des différentes nations*" shou d be added.

Art. 38, No. 4, would then read in the French text as follows:

4. *Sous réserve de la disposition de l'article 59, les décisions judicaires et la doctrine des publicistes les plus qualifiés des différentes nations, comme moyen auxiliaire de détermination des régles de droit.*

17. Procedure

In the final paragraph of Art. 39, where reference is made to the power of the Court to authorize, at the request of the parties, the use of a language other than French or English, the committee thinks it should be more clearly stated that such authorization may be granted without agreement between the parties, provided one of them so requests. Experience has shown that it might be desirable to make this clearer.

Art. 39, paragraph 3, would then read as follows:

The Court may, at the request of any party, authorize a language other than French or English to be used.

18. Communication of Applications

In Par. 3 of Art. 40, the committee thinks it would be desirable to bring the text of the Statute into line with Art. 73 of the present Rules of Court, which latter provision, as will be seen, the committee proposes to embody in the new draft of the Statute.

Art. 40, Par. 3, would then read as follows:

He shall also notify the Members of the League of Nations through the Secretary-General, and also any States entitled to appear before the Court.

19. Direction of the Hearing

The English text of Art. 45 does not quite correspond to the French text, which here is better.

In order to bring the two texts into concordance, the committee proposes to replace the words "in his absence" by the words "if he is unable to preside," and the words "if both are absent" by the words "if neither is able to preside."

The English text of this article would then read as follows:

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

20. Advisory Opinions

The present Statute contains no explicit reference to advisory opinions. The Court has been compelled by circumstances to remedy this omission to a certain extent in Arts. 71, 72, 73 and 74 of the Rules of Court.

The committee considers that the essential parts of these provisions should be transferred to the Statute of the Court in order to give them a permanent character, which seems particularly desirable to-day in view of the special circumstances attending the possible accession of the United States to the Protocol of Signature of the Statute of the Court.

The committee therefore proposes to add at the end of the present Statute a new chapter numbered IV and headed "Advisory Opinions," the first three articles of which, numbered 65, 66 and 67, would reproduce the substance of Arts. 72, 73 and 74 of the present Rules of Court.

It also proposes that a final article numbered 68 should be added to this chapter in order to take account of the fact that the Court may be called upon to give advisory opinions both in contentious and in noncontentious matters. The effect would be that, in the former case, the Court would apply the provisions relating to contentious procedure referred to in the previous chapters of the Statute, whereas those provisions would not always be applicable when the Court gave an opinion on a noncontentious matter. Thus, for example, Arts. 57 and 58 should apply in all cases, but Art. 31 would only apply when an advisory opinion was asked on a question relating to a dispute which had already arisen.

The new Arts. 65, 66, 67 and 68 would be worded as follows:

Chapter IV

Advisory Opinions

Art. 65. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required and shall be accompanied by all documents likely to throw light upon the question.

Art. 66. The Registrar shall forthwith give notice of the request for an advisory opinion to the Members of the League of Nations, through the Secretary-General of the League, and to any States entitled to appear before the Court.

The Registrar shall also, by means of a special and direct communication, notify any Member of the League or State admitted to appear before the Court considered by the Court (or, should it not be sitting, by the President) as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

Should any State or Member referred to in the first paragraph have failed to receive the communication specified above, such State or Member may express a desire to submit a written statement, or to be heard; and the Court will decide.

States or Members having presented written or oral statements or both shall be admitted to comment on the statements made by other States or Members in the form, to the extent and within the time-limits which the Court or, should it not be sitting, the President shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to States or Members having submitted similar statements.

Art. 67. The Court shall deliver its advisory opinions in open Court, notice having been given to the Secretary-General of the League of Nations and to the representatives of States and Members of the League immediately concerned.

Art. 68. In the exercise of its advisory functions the Court shall apply Arts. 65, 66 and 67. It shall further be guided by the provisions of the preceding Chapters of this Statute to the extent to which it recognizes them to be applicable to the case.

Such are the proposals which the committee has the honor to submit for the Council's consideration.

The committee has to observe that, in the course of its work, it has found somewhat inappropriate expressions used in the French and in the English texts of several articles of the Statute; it has, however, felt it unnecessary to propose corrections, as it does not wish to encumber the present report with suggestions which are not clearly of practical value.

Finally, the committee has considered what would be the appropriate procedure for bringing into force the amendments proposed in the present report.

On this subject the committee ventures to make the following suggestions:

If the Council approves the conclusions of the report, it will no doubt find it convenient to communicate them to the Members of the League of Nations and the states mentioned in the Annex to the Covenant and to transmit them to the Assembly; it would be desirable that, if the amendments secure general approval, the protocol accepting them which must be concluded between the parties which have ratified the 1920 Statute should be made in the course of next Assembly.

On this point the committee must call the attention of the Council to the necessity for taking appropriate measures to secure the entry into force of the amendments a sufficient time before the election of the members of the Court in September, 1930, on account, more particularly, of the changes which are made in regard to the number of the members of the Court and the rules as to the occupations which are incompatible with membership.

III. CONVOCATION OF A CONFERENCE: REPORT AND RESOLUTION OF THE COUNCIL OF THE LEAGUE OF NATIONS, JUNE 12, 1929[1]

[Excerpt]

The Committee of Jurists, which sat from March 11–19, 1929, embodied the results of its examination in two separate reports, corresponding to the two parts of its task. These reports, of which members of the Council have already taken note (C. 142. M. 52. 1929)[2] deal in detail with the questions referred to the committee. My colleagues will have found in them the proposals put forward by the committee, together with a statement of the grounds on which those proposals are based.

One of the reports, relating to the revision of the Statute of the Permanent Court of International Justice, recommends certain amendments to that Statute. The report contains the following suggestions in regard to the procedure to be followed in this matter:

> If the Council approves the conclusions of the report, it will no doubt find it convenient to communicate them to the Members of the League of Nations and the states mentioned in the Annex to the Covenant and to transmit them to the Assembly; it would be desirable that, if the amendments secure general approval, the protocol accepting them, which must be concluded between the parties which have ratified the 1920 Statute, should be made in the course of the next Assembly.
>
> On this point, the committee must call the attention of the Council to the necessity for taking appropriate measures to secure the entry into force of the amendments a sufficient time before the election of the members of the Court in September, 1930, on account, more particularly, of the changes which are made in regard to the number of the members of the Court and the rules as to the occupations which are incompatible with membership.

Although the Assembly's resolution of September 20, 1928, asks the Council "to submit the necessary proposals to the next ordinary session of the Assembly," it seems clear that the intentions of the

[1] *Official Journal*, X, p. 996.

[2] *Ibid.*, p. 1113.

Assembly will be fulfilled only if measures are taken by the Council forthwith for the early consideration by the states parties to the Court's Statute of the proposed amendments. I think that the Council would be correctly interpreting the wishes of the Assembly in deciding, in accordance with the committee's suggestion, that such a consultation should take place concurrently with the next session of the Assembly. I propose, therefore, that the Council decide to convoke a conference of the states parties to the Statute to meet at a date that would enable it to consult with the Assembly, whose intervention is also required. For similar reasons the Council might agree to ask the Supervisory Commission to examine and report to the Assembly at its next session on the financial proposals contained in Par. 14 of the report of the committee.

. . . . . .

I venture, therefore, to submit to the Council the following draft resolution:

The Council adopts the considerations and suggestions put forward by its Rapporteur. In view of the report which the Committee of Jurists has submitted to it on the question of the revision of the Statute of the Permanent Court of International Justice,

The Council decides:

To instruct the Secretary-General to communicate the report of the committee to the Members of the League of Nations and to the states mentioned in the Annex to the Covenant;

To convoke a conference of states parties to the Statute of the Permanent Court of International Justice to meet at Geneva on [Wednesday, September 4,[1]] 1929, with a view to examining the amendments to the Statute and recommendations formulated by the Committee of Jurists;

To request the Supervisory Commission to present to the Assembly at its next ordinary session its opinion as to the measures proposed in paragraph 14 of the report of the Committee of Jurists.

The draft resolution was adopted.

[1] Tuesday, September 10, was the date in the resolution as adopted; however, a reconsideration of the date by the Council resulted in advancing it to Wednesday, September 4 (*Official Journal*, X, p. 1031).

IV. PROTOCOL CONCERNING REVISION OF THE STATUTE OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE, OPENED FOR SIGNATURE AT GENEVA, SEPTEMBER 14, 1929[1]

1. The undersigned, duly authorized, agree, on behalf of the Governments which they represent, to make in the Statute of the Permanent Court of International Justice the amendments which are set out in the Annex to the present Protocol and which form the subject of the resolution of the Assembly of the League of Nations of September 14, 1929.

2. The present Protocol, of which the French and English texts are both authentic, shall be presented for signature to all the signatories of the Protocol of December 16, 1920, to which the Statute of the Permanent Court of International Justice is annexed, and to the United States of America.

3. The present Protocol shall be ratified. The instruments of ratification shall be deposited, if possible before September 1, 1930, with the Secretary-General of the League of Nations, who shall inform the Members of the League of Nations and the States mentioned in the Annex to the Covenant.

4. The present Protocol shall enter into force on September 1, 1930, provided that the Council of the League of Nations has satisfied itself that those Members of the League of Nations and States mentioned in the Annex to the Covenant which have ratified the Protocol of December 16, 1920, and whose ratification of the present Protocol has not been received by that date, have no objection to the coming into force of the amendments to the Statute of the Court which are annexed to the present Protocol.

5. After the entry into force of the present Protocol, the new provisions shall form part of the Statute adopted in 1920 and the

[1] Reprinted from the protocol in League Document C. 492. M. 156. 1929. V.

The Protocol was opened for signature following the adoption of a resolution by the Assembly of the League of Nations which read in part:

"1. The Assembly adopts the amendments to the Statute of the Permanent Court of International Justice and the draft Protocol which the Conference convened by the Council of the League of Nations has drawn up after consideration of the report of the Committee of Jurists, which met in March 1929 at Geneva and which included among its members a jurist of the United States of America. The Assembly expresses the hope that the draft Protocol drawn up by the Conference may receive as many signatures as possible before the close of the present session of the Assembly and that all the Governments concerned will use their utmost efforts to secure the entry into force of the amendments to the Statute of the Court before the opening of the next session of the Assembly, in the course of which the Assembly and the Council will be called upon to proceed to a new election of the members of the Court."

provisions of the original articles which have been made the subject of amendment shall be abrogated. It is understood that, until January 1, 1931, the Court shall continue to perform its functions in accordance with the Statute of 1920.

6. After the entry into force of the present Protocol, any acceptance of the Statute of the Court shall constitute an acceptance of the Statute as amended.

7. For the purposes of the present Protocol, the United States of America shall be in the same position as a State which has ratified the Protocol of December 16, 1920.

DONE at Geneva, the fourteenth day of September, nineteen hundred and twenty-nine, in a single copy which shall be deposited in the archives of the Secretariat of the League of Nations. The Secretary-General shall deliver authenticated copies to the Members of the League of Nations and to the States mentioned in the Annex to the Covenant.

[Up to October 1, 1929, the Protocol had been signed on behalf of the following states:

Australia
Austria
Belgium
Bolivia
Brazil
Bulgaria
Canada
Chile
China
Colombia
Czechoslovakia
Denmark
Dominican Republic
Estonia
Finland
France
Germany
Great Britain and Northern Ireland and all Parts of the British Empire not separate Members of the League of Nations
Greece
Guatemala
Haiti
Hungary
India
Irish Free State
Italy
Latvia
Liberia
Luxemburg
Netherlands
New Zealand
Nicaragua
Norway
Panama
Paraguay
Persia
Peru
Poland
Portugal
Rumania
Salvador
Serb-Croat-Slovene State
Siam
South Africa, Union of
Spain
Sweden
Switzerland
Uruguay
Venezuela]

Annex to the Protocol of September 14, 1929

Amendments to the Statute of the Permanent Court of International Justice

Arts. 3, 4, 8, 13, 14, 15, 16, 17, 23, 25, 26, 27, 29, 31, 32 and 35 are replaced by the following provisions:

[The new texts are here set forth *in extenso;* for them see the Statute, p. 83 [723], *supra.*]

Arts. 39 and 40 are replaced by the following provisions:

[The new text of these articles as printed in the Statute.]

The English text of Art. 45 is replaced by the following provision:

[The text as printed in the Statute.]

The following new chapter is added to the Statute of the Court:

[New Arts. 65–68 are set forth as printed in the Statute.][1]

[1] *Supra*, p. 101 [741].

V. THE UNITED STATES AND REVISION

Letter from the President of the Conference of Signatory States to the Assembly of the League of Nations[1]

[Excerpt]

The Conference associates itself with the following observations made by its Drafting Committee upon the draft Protocol:

As regards the special position of the United States, it may perhaps prevent misunderstanding if it is pointed out that three instruments relating to the Court will be presented for acceptance to that power, namely:

The Protocol destined to satisfy the reservations attached by the United States Senate to the accession of the United States of America to the Statute of the Court;

The Protocol of Signature of 1920; and

The new Protocol relating to the amendment of the Statute.

There could, of course, be no question of the United States being a party to the unamended Statute while the other states concerned were parties to the Statute in its amended form, but the draft Protocol relating to the amendment of the Statute is believed to safeguard entirely the situation of the United States with regard to the amendments (see par. 7 of the Protocol); and, while it is, of course, not within the province of the Drafting Committee or the Conference to anticipate what procedure the United States may follow, it may be hoped that the United States will in due course sign and ratify all three above-mentioned instruments. It would, in fact, be possible for the United States at the moment when it signs the Protocol dealing with its reservations to sign also the Protocol of Signature of 1920 and that relating to the amendments, subject to the eventual entry into force of the first-mentioned agreement.

[1] Reprinted from League of Nations Document A. 50. 1929. V. 16, p. 3.

APPENDIX II

ACCESSION OF THE UNITED STATES

I. SENATE RESOLUTION GIVING ADVICE AND CONSENT OF THE SENATE TO THE ADHESION BY THE UNITED STATES TO THE PROTOCOL OF DECEMBER 16, 1920, WITH RESERVATIONS, JANUARY 27, 1926 [1]

Whereas the President, under date of February 24, 1923, transmitted a message to the Senate, accompanied by a letter from the Secretary of State, dated February 17, 1923, asking the favorable advice and consent of the Senate to the adherence on the part of the United States to the Protocol of December 16, 1920, of Signature of the Statute for the Permanent Court of International Justice, set out in the said message of the President (without accepting or agreeing to the optional clause for compulsory jurisdiction contained therein), upon the conditions and understandings hereafter stated, to be made a part of the instrument of adherence: Therefore, be it

Resolved (*two-thirds of the Senators present concurring*), That the Senate advise and consent to the adherence on the part of the United States to the said Protocol of December 16, 1920, and the adjoined Statute for the Permanent Court of International Justice (without accepting or agreeing to the optional clause for compulsory jurisdiction contained in said Statute), and that the signature of the United States be affixed to the said Protocol, subject to the following reservations and understandings, which are hereby made a part and condition of this resolution, namely:

1. That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the treaty of Versailles.

[1] S. Res. 5, 69th Cong. 1st sess., as modified in open executive session, January 16 (calendar day, January 23), 1926, and passed January 16 (calendar day, January 27), 1926.

2. That the United States shall be permitted to participate through representatives designated for the purpose and upon an equality with the other states, members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice or for the filling of vacancies.

3. That the United States will pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

4. That the United States may at any time withdraw its adherence to the said Protocol and that the Statute for the Permanent Court of International Justice adjoined to the Protocol shall not be amended without the consent of the United States.

5. That the Court shall not render any advisory opinion except publicly after due notice to all states adhering to the Court and to all interested states and after public hearing or opportunity for hearing given to any state concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.

The signature of the United States to the said Protocol shall not be affixed until the powers signatory to such Protocol shall have indicated, through an exchange of notes, their acceptance of the foregoing reservations and understandings as a part and a condition of adherence by the United States to the said Protocol.

Resolved, further, As a part of this act of ratification that the United States approve the Protocol and Statute hereinabove mentioned, with the understanding that recourse to the Permanent Court of International Justice for the settlement of differences between the United States and any other state or states can be had only by agreement thereto through general or special treaties concluded between the parties in dispute; and

Resolved, further, That adherence to the said Protocol and Statute hereby approved shall not be so construed as to require the United States to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall adherence to the said Protocol and Statute be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.

II. PRELIMINARY DRAFT OF A PROTOCOL ADOPTED BY THE CONFERENCE OF STATES SIGNATORIES, SEPTEMBER 23, 1926 [1]

The states signatories of the Protocol of Signature of the Permanent Court of International Justice, dated December 16, 1920, and the United States of America, through the undersigned duly authorized representatives, have agreed upon the following provisions regarding the adherence by the United States of America to the said Protocol, subject to the five reservations formulated by the United States.

Article 1

The United States shall be admitted to participate, through representatives designated for the purpose and upon an equality with the signatory states, Members of the League of Nations, represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice, provided for in the Statute of the Court. The vote of the United States shall be counted in determining the absolute majority of votes required by the Statute.

Article 2

No amendment of the Statute annexed to the Protocol of December 16, 1920, may be made without the consent of all the contracting states.

Article 3

The Court shall render advisory opinions in public session.

Article 4

The manner in which the consent provided for in the second part of the fifth reservation is to be given, will be the subject of an understanding to be reached by the Government of the United States with the Council of the League of Nations.

[1] Annex B of the Final Act of the conference, *Minutes of the Conference* (1926. V. 26), p. 81; Hudson, *op. cit.*, p. 181.

The states signatories of the Protocol of December 16, 1920, will be informed as soon as the understanding contemplated by the preceding paragraph has been reached.

Should the United States offer objection to an advisory opinion being given by the Court, at the request of the Council or the Assembly, concerning a dispute to which the United States is not a party or concerning a question other than a dispute between states, the Court will attribute to such objection the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council.

Article 5

Subject to the provisions of Art. 7 below, the provisions of the present Protocol shall have the same force and effect as the provisions of the Statute annexed to the Protocol of December 16, 1920.

Article 6

The present Protocol shall be ratified. Each State shall forward the instrument of ratification to the Secretary-General of the League of Nations, who shall inform all the other signatory states. The instruments of ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The present Protocol shall come into force as soon as all the states which have ratified the Protocol of December 16, 1920, including the United States, have deposited their ratifications.

Article 7

The United States may at any time notify the Secretary-General of the League of Nations that it withdraws its adherence to the Protocol of December 16, 1920. The Secretary-General shall immediately communicate this notification to all the other states signatories of the Protocol.

In such case the present Protocol shall cease to be in force as from the receipt by the Secretary-General of the notification by the United States.

On their part, each of the contracting states may at any time notify the Secretary-General of the League of Nations that it desires to withdraw its acceptance of the special conditions attached by the United States to its adherence to the Protocol of December 16, 1920, in the second part of its fourth reservation and in its fifth

reservation. The Secretary-General shall immediately give communication of this notification to each of the states signatories of the present Protocol. The present Protocol shall be considered as ceasing to be in force if and when, within one year from the receipt of the said notification, not less than two-thirds of the contracting states other than the United States shall have notified the Secretary-General of the League of Nations that they desire to withdraw the above-mentioned acceptance.

Article 8

The present Protocol shall remain open for signature by any state which may in the future sign the Protocol of Signature of December 16, 1920.

Done at....., the.....day of....., 19...., in a single copy, of which the French and English texts shall both be authoritative.

III. RESOLUTION OF THE COUNCIL OF THE LEAGUE OF NATIONS, MARCH 9, 1929[1]

Sir AUSTEN CHAMBERLAIN submitted the following proposal and draft resolution:[2]

My Government received a few days ago a note from the Secretary of State of the United States of America relating to the accession of the United States to the Protocol of Signature of the Statute of the Permanent Court of International Justice. I understand that similar notes have been received by the Governments of the other signatories.

The Secretary of State's communication relates more particularly to the reply made to the communication of 1926 by 24 Governments as a result of the conference which was held at the end of that year at Geneva.

My Government has observed with satisfaction that the United States Government feels that a further informal exchange of views, such as was contemplated by the conference, ought to lead to an agreement which would be satisfactory to all parties.

The Secretary of State's note has reached the Governments at the moment at which the Committee of Jurists, appointed under the Council's resolution of December 14, 1928,[3] is about to commence its study of the question of eventual amendment of the Statute of the Court. The task with which this committee has been entrusted makes it, in my opinion, possible that it might be able to furnish valuable assistance toward reaching the agreement which is contemplated in the Secretary of State's note, and which I am sure is greatly desired by all the present signatories of the Protocol of Signature of the Court's Statute.

I venture, therefore, to suggest that the Council should invite the committee to examine this question and to offer any advice upon it which it feels it can usefully give. I therefore propose the adoption of the following resolution:

"The Council requests the Committee appointed by its resolution of December 14, 1928, to consider the present situation as regards accession of the United States of America to the Protocol of Signature of the Statute of the Permanent Court of International Justice and to

[1] League of Nations, *Official Journal*, X, p. 564.

[2] Document C. 120. 1929. V.

[3] *Ibid.*, p. 56.

make any suggestions which it feels able to offer with a view of facilitating such accession on conditions satisfactory to all the interests concerned."

He added that he was sure his colleagues would have observed with great pleasure the very sympathetic reference, made in Mr. Kellogg's note, to the Council and its work.

The Government of the United States [he writes] desires to avoid, in so far as may be possible, any proposal which would interfere with or embarrass the work of the Council of the League of Nations, doubtless often perplexing and difficult, and it would be glad if it could dispose of the subject by a simple acceptance of the suggestions embodied in the Final Act and Draft Protocol adopted at Geneva on September 23, 1926. There are, however, some elements of uncertainty in the bases of these suggestions which seem to require further discussion.

The note concluded with the following friendly and hopeful statement:

The Government of the United States feels that such an informal exchange of views as is contemplated by the 24 Governments should, as herein suggested, lead to agreement upon some provision which, in unobjectionable form, would protect the rights and interests of the United States as an adherent to the Court Statute, and this expectation is strongly supported by the fact that there seems to be but little difference regarding the substance of these rights and interests.

It was in the confident hope that the above expectation would be realized that the British representative made his proposal to invite the Committee of Jurists to consider the suggestion. It was a most fortunate circumstance that among the gentlemen who had accepted the invitation of the Council to serve on that committee was the very eminent jurist and statesman, Mr. Elihu Root, than whom no one could be more competent to assist the committee in its task, since he was himself one of the framers of the Statute of the Court.

M. de Agüero y Bethancourt said that, as representative of the Government of Cuba, he wholeheartedly associated himself with the proposal made by the British representative. His Government welcomed all the more cordially the new step taken by the Government of the United States since the Cuban Government

had from the beginning adhered to the amendment presented by that Government. He believed with Sir Austen Chamberlain that the presence of the distinguished jurist, Mr. Elihu Root, could not fail to have a considerable influence in achieving an agreement which was extremely desirable, not only in the interests of the Permanent Court of International Justice but also in the interests of the League of Nations.

M. BRIAND said that, as representative of France, he fully approved the proposal made by the representative of Great Britain and associated himself with the hope that had been expressed to the effect that the Committee of Jurists, whose terms of reference were to be enlarged, might be able, after an exchange of views with the distinguished American statesman then at Geneva, Mr. Elihu Root, to reach an agreement which was warmly desired by every one.

Dr. STRESEMANN associated himself with the proposal made by the Rapporteur and in particular, with the appreciation expressed by him, in common with the other speakers, of the intention of the United States of America to adhere to the Permanent Court of International Justice at The Hague. The adherence on the part of so great a state would constitute a considerable progress in the development of international life and would be an important supplement to the pact for the outlawry of war signed at Paris. He was confident that the Committee of Jurists, with the cooperation of the distinguished American lawyer, would find means of removing any difficulties which might still subsist, so that the intention of the Government at Washington might be carried out as quickly as possible. The accession of the United States would not only help to increase the prestige of the supreme international jurisdiction but would also be a further encouragement to the principle of international arbitration.

Mr. DANDURAND said he was expressing the views of the Canadian Government in cordially adhering to the proposal of the British representative.

M. ZUMETA, on behalf of the Government of Venezuela, fully associated himself with the proposal which had just been made by the British representative and particularly with the declarations and hopes expressed by him and the other speakers.

M. TITULESCO said that the accession of the United States to the Permanent Court of International Justice would be a world event of such importance that he could very warmly support the proposal of the British representative and associate himself with the hopes that had been expressed.

M. PROCOPÉ also associated himself very sincerely with the words of the British representative. He was sure that his Government earnestly hoped that means would be found to render possible the accession of the United States to the Permanent Court of International Justice.

M. VALDÉS-MENDEVILLE said he fully agreed with the proposal of the British representative and particularly with the declarations which had been made. He further indorsed the hopes which had just been expressed, as his country would be extremely glad if a formula could be found which would render possible the accession of the United States to the Permanent Court of International Justice.

He was glad to note that the endeavor to reach a solution which was so greatly desired had been intrusted to Mr. Elihu Root working in cooperation with the Committee of Jurists. Mr. Root's qualities were very widely respected and appreciated in Chile.

M. QUIÑONES DE LEÓN associated himself with the report of the British representative and with the observations which had been added by him.

M. ADATEI cordially agreed with the proposal of the British representative and expressed the hope that the Committee of Jurists would succeed in its new task of settling this question, which was of cardinal importance.

M. ZALESKI, on behalf of Poland, warmly associated himself with the proposals of the British representative.

H. H. MOHAMMAD ALI KHAN FOROUGHI added his approval of the words which had just been spoken, in order to emphasize that the Council was unanimous on the subject.

The PRESIDENT thought it was superfluous to take a vote on the proposal, since all the members of the Council had declared themselves in favor of it. He would be the only member to abstain if he did not add a few words. As a very old delegate to the League of Nations he would remind the Council that, when the Permanent Court of International Justice had first been constituted, the Council had felt it desirable to appoint as a member of that Court a distinguished American lawyer, although the United States had not yet adhered to the Statute of the Court. That had been a solemn invitation addressed to a great country, which now declared itself ready to accept the proposal of the Council. It only remained to settle certain technical legal problems and he hoped the solution would easily be found.

The draft resolution was adopted.

Sir AUSTEN CHAMBERLAIN said that the note originally addressed to the Governments concerned was also by the courtesy of the United States Government, communicated to the League through the intermediary of the United States Legation at Bern,[1] and he would venture to propose that the Council should request the Secretary-General to send a copy of the Minutes of the present discussion to the United States Government through the same intermediary.

The proposal was approved.

[1] *Official Journal*, X, p. 779.

IV. ELIHU ROOT'S SUGGESTED REDRAFT OF ART. 4 OF THE PROTOCOL OF 1926 [1]

(The original form of the Root Plan)

The Court shall not, without the consent of the United States, render an advisory opinion touching any dispute to which the United States is a party.

The Court shall not, without the consent of the United States, render an advisory opinion touching any dispute to which the United States is not a party but in which it claims an interest or touching any question other than a dispute in which the United States claims an interest.

The manner in which it shall be made known whether the United States claims an interest and gives or withholds its consent shall be as follows:

Whenever, in contemplation of a request for an advisory opinion, it seems to them desirable, the Council or the Assembly may invite an exchange of views with the United States and such exchange of views shall proceed with all convenient speed.

Whenever a request for an advisory opinion comes to the Court, the Registrar shall notify the United States thereof, among other states mentioned in the new existing Art. 73 of the Rules of the Court, stating a reasonable time limit fixed by the President within which a written statement by the United States concerning the request will be received.

In case the United States shall, within the time fixed, advise the Court in writing that the request touches a dispute or question in which the United States has an interest and that the United States has not consented to the submission of the question, thereupon all proceedings upon the question shall be stayed to admit of an exchange of views between the United States and the proponents of the request, and such exchange of views shall proceed with all convenient speed.

If after such exchange of views, either while a question is in contemplation or after a question has gone to the Court, it shall appear:

[1] Committee of Jurists. *Minutes*, p. 9.

(1) that no agreement can be reached as to whether the question does touch an interest of the United States within the true meaning of the second paragraph of this article; and (2) that the submission of the question is still insisted upon after attributing to the objections of the United States the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council; and if it also appears that the United States has not been able to find the submission of the question so important for the general good as to call upon the United States to forego its objection in that particular instance, leaving the request to be acted upon by the Court without in any way binding the United States; then it shall be deemed that, owing to material difference of view regarding the proper scope of the practice of requesting advisory opinions, the arrangement now agreed upon is not yielding satisfactory results and that the exercise of the powers of withdrawal provided in Art. 7 hereof will follow naturally without any imputation of unfriendliness or of unwillingness to cooperate generally for peace and good will.

V. REPORT ADOPTED BY THE COMMITTEE OF JURISTS, MARCH 18, 1929[1]

On February 19, 1929, the Secretary of State of the United States addressed to each of the Governments which had signed the Protocol of Signature of the Statute for the Permanent Court of International Justice, dated December 16, 1920, and also to the Secretary-General of the League of Nations, a note suggesting that an exchange of views might lead to an agreement with regard to the acceptance of the stipulation set forth in the resolution adopted by the Senate of the United States on January 27, 1926, as the conditions upon which the United States would adhere to the said Protocol. This note was considered by the Council of the League of Nations at its meeting on March 9, 1929, and cordial satisfaction was expressed at the prospect which the note held out that a solution might be found for the difficulties which had prevented the adherence of the United States in 1926. On the same date a resolution was adopted by the Council, requesting the Committee of Jurists, which had been appointed by the Council at its meeting on December 14, 1928, to consider the revision of the Statute of the Permanent Court of International Justice, to deal with this question as well as those with which it was already charged and to make any suggestions which it felt able to offer, with a view to facilitating the accession of the United States on conditions satisfactory to all the interests concerned.

It has been of the greatest assistance to the committee in the accomplishment of this additional task that among its members was to be found the Hon. Elihu Root, former Secretary of State of the United States, and one of the members of the committee which in 1920 framed the original draft of the Statute of the Court. His presence in the committee has enabled it to re-examine with good results the work accomplished by the special conference which was convoked by the Council in 1926, after the receipt of the letter of March 2 of that year from the then Secretary of State of the United States informing the Secretary-General of the League that the United States was disposed to adhere to the Protocol of December

[1] Reprinted from Document C. 142. M. 52. 1929. V. 4, p. 15. *Official Journal*, X, p. 1113.

16, 1920, on certain conditions enumerated in that letter. The United States did not see its way to participate, as it was invited to do, in the special conference of 1926, and, unfortunately, the proposals which emanated from that conference were found not to be acceptable to the United States. Nevertheless, as is shown by the note of February 19, 1929, from Mr. Kellogg, the margin of difference between the requirements of the United States and the recommendations made by the special conference to the powers which had signed the protocol of December 16, 1920, is not great. For this reason, the committee adopted as the basis of its discussions the preliminary draft of a protocol annexed to the Final Act of that conference, and has introduced into the text the changes which it believes to be necessary to overcome the objections encountered by the draft of 1926 and to render it acceptable to all parties. This revised text is now submitted to the Council of the League.

The discussions in the committee have shown that the conditions with which the Government of the United States thought it necessary to accompany the expression of its willingness to adhere to the protocol establishing the Court owed their origin to apprehension that the Council or the Assembly of the League might request from the Court advisory opinions without reference to the interests of the United States which might in certain cases be involved. Those discussions have also shown that the hesitation felt by the delegates to the conference of 1926 as to recommending the acceptance of those conditions was due to apprehension that the rights claimed in the reservations formulated by the United States might be exercised in a way which would interfere with the work of the Council or the Assembly and embarrass their procedure. The task of the committee has been to discover some method of insuring that neither on the one side nor on the other should these apprehensions prove to be well founded.

No difficulty has at any time been felt with regard to the acceptance of the conditions laid down by the United States, except in so far as they relate to advisory opinions, and the task of the committee would have been simplified if its members had felt able to recommend that the system of asking the Court for an advisory opinion upon any particular question should be abandoned altogether. The committee, however, is of opinion that it can not recommend any such drastic solution. The system of asking the Court for an advisory opinion has proved to be of substantial utility in securing a solution of questions which could not conveniently be submitted to the Court in any other form. It has also on occasions

enabled parties to a dispute to ask for the submission of their difference to the Court in the form of a request for an advisory opinion when they were for various reasons unwilling to submit it in the form of international litigation.

The committee has also felt obliged to reject another method by which satisfaction might without difficulty be given to the conditions laid down by the United States. It is that of recommending the adoption of a rule that in all cases a decision on the part of the Council or Assembly to ask for an advisory opinion from the Court must be unanimous.

As is pointed out in the Final Act of the special conference of 1926, it was not then possible to say with certainty whether a decision by a majority was not sufficient. It is equally impossible to-day. All that is possible is to guarantee to the United States a position of equality in this matter with the states which are represented in the Council or the Assembly of the League.

Furthermore, mature reflection convinced the committee that it was useless to attempt to allay the apprehensions on either side, which have been referred to above, by the elaboration of any system of paper guaranties or abstract formulæ. The more hopeful system is to deal with the problem in a concrete form, to provide some method by which such questions as they arise may be examined and views exchanged, and a conclusion thereby reached after each side has made itself acquainted with the difficulties and responsibilities which beset the other.

It is this method which the committee recommends should be adopted, and to provide for which it now submits a text of a Protocol to be concluded between the States which signed the Protocol of 1920 and the United States of America.

The note of February 19, 1929, from the Secretary of State of the United States makes it clear that the Government of the United States has no desire to interfere with or to embarrass the work of the Council or the Assembly of the League, and that that Government realizes the difficulties and responsibilities of the tasks with which the League is from time to time confronted. It shows that there is no intention on the part of the United States Government of hampering upon unreal or unsubstantial grounds the machinery by which advisory opinions are from time to time requested.

The committee is thereby enabled to recommend that the states which signed the Protocol of 1920 should accept the reservations formulated by the United States upon the terms and conditions set

out in the articles of the draft Protocol. This is the effect of Art. I of the draft now submitted.

The next three articles reproduce without substantial change the corresponding articles of the draft of 1926.

The fifth article provides machinery by which the United States will be made aware of any proposal before the Council or the Assembly for obtaining an advisory opinion and will have an opportunity of indicating whether the interests of the United States are affected, so that the Council or the Assembly, as the case may be, may decide its course of action with full knowledge of the position. One may hope with confidence that the exchange of views so provided for will be sufficient to insure that an understanding will be reached and no conflict of views will remain.

The provisions of this article have been worded with due regard to the exigencies of business in the Council of the League. The desirability of obtaining an advisory opinion may only become apparent as the session of the Council is drawing to a close and when it may not be possible to complete the exchange of views before the members of that body separate. In that case, it will be for the Council to give such directions as the circumstances may require in order to insure that the intentions of the article are carried out. The request addressed to the Court may, for instance, be held up temporarily, or may be dispatched with the request that the Court will nevertheless suspend action on the request until the exchange of views with the United States has been completed. The provisions of the article have purposely been framed so as to afford a measure of elasticity in its application. Similarly, if the Court has commenced the preliminary proceedings consequent upon the receipt of a request for an advisory opinion and has given notice of the request to the United States in the same way as it has to the other Governments, the proceedings may, if necessary, be interrupted in order that the necessary exchange of views may take place. What is said in this paragraph with regard to requests for advisory opinions made by the Council would also apply to requests by the Assembly in the event of the Assembly making any such request.

The provisions of this article should in practice afford protection to all parties in all cases, but, if they do not, it must be recognized that the solution embodied in the present proposal will not have achieved the success that was hoped, and that the United States would be fully justified in withdrawing from the arrangement. It is for this eventuality that provision is made in the last paragraph

of the article. It may be hoped that should any such withdrawal by the United States materialize, it would in fact be followed or accompanied by the conclusion of some new and more satisfactory arrangement.

The remaining provisions of the draft Protocol do not call for detailed comment, because they are in substance similar to the corresponding provisions of the draft Protocol of 1926.

It is necessary to consider what steps will be required to bring the Protocol, of which the text is now submitted, into force in the event of the recommendations of the committee being accepted.

If the terms of the protocol are approved by the Council, it will be advisable that the Secretary General should be directed, when answering Secretary Kellogg's note of February 19, 1929, to communicate the draft to the Government of the United States. Since the Protocol, if approved, covers the entire ground of Secretary Kellogg's note, its transmission with a statement of the Council's approval would seem to constitute an adequate reply to that note. It should at the same time be communicated to all the states which signed the Protocol of December 16, 1920, together with a copy of the resolution of the Senate of the United States, dated January 27, 1926, containing the reservations of the United States.

It should also be communicated to the Assembly, in which the proposal for the appointment of this committee originated, in order that, if its terms are acceptable to that body, a resolution approving it may be passed by the Assembly in the course of its ensuing session. Any action taken by the Assembly should be communicated to the signatory states which are called upon to determine whether or not to sign the new Protocol now proposed.

If the replies from the various Governments indicate a desire for a further exchange of views in regard to the nature of the proposed arrangement with the United States or to the terms of the draft protocol, it will be for the Council to decide whether such exchange of views should proceed through the diplomatic channel or whether it is necessary to convoke a further special conference for the purpose, at which states not Members of the League might be represented. In any event, such exchange of views should, if possible, be completed before the conclusion of the Assembly, in order that the approval by the Assembly may be obtained in 1929. A copy of the Protocol in the terms approved will then be prepared for signature, and every effort should be made to secure that delegates to the meeting of the Assembly or of the special conference, if there should be one, should be authorized to sign the instrument, and should

actually sign it before they leave Geneva. The signature of representatives of states not Members of the League should be obtained at the same time.

As provided in Art. 7 of the draft, the protocol will come into force as soon as it has been ratified by the states which have ratified the Protocol of December 16, 1920, and by the United States, and, as soon as it comes into force, it will be possible for the United States to take the necessary steps to become a party to the Protocol of December 16, 1920, and to any further protocol which may have been concluded for introducing amendments into the Statute of the Court.

When that happy result has been achieved, it will be possible to feel that further progress has been made in establishing the reign of law among the nations of the world and in diminishing the risk that there may be a resort to force for the solution of their conflicts.

VI. ACTION OF THE COUNCIL OF THE LEAGUE OF NATIONS: REPORT AND RESOLUTION, JUNE 12, 1929 [1]

Referring to a letter from the Secretary of State of the United States of America, dated February 19, 1929, the Council of the League of Nations, on March 9 following, requested the Committee of Jurists mentioned in its resolutions of December 13 and 14, 1928, to make any suggestions which it felt able to offer with a view to facilitating the accession of the United States of America to the Protocol of Signature of the Statute of the Permanent Court of International Justice.

The Committee of Jurists, which sat from March 11–19, 1929, set forth in a report, to which is annexed a draft Protocol, the results of its study of the question. My colleagues have seen this report, which follows the Committee's report on the examination of the Statute of the Court in document C. 142. M. 52. 1929. The members of the Council will have found in the report, together with the proposals submitted, a statement of the grounds on which those proposals are based.

The procedure proposed by the committee seems to constitute the best means of realizing the end in view. The Jurists in their report have contemplated that:

> If the terms of the Protocol are approved by the Council, it will be advisable that the Secretary-General should be directed, when answering Mr. Kellogg's note of February 19, 1929, to communicate the draft to the Government of the United States. Since the Protocol, if approved, covers the entire ground of Mr. Kellogg's note, its transmission with a statement of the Council's approval would seem to constitute an adequate reply to that note. It should, at the same time, be communicated to all the States which signed the Protocol of December 16, 1920, together with a copy of the resolution of the Senate of the United States, dated January 27, 1926, containing the reservations of the United States.

As the Assembly is called upon to pronounce upon the matter at its next session, the procedure recommended gives the states which

[1] *Official Journal*, X, p. 997. (Document C. 275. 1929. V.)

are parties to the Court's Statute and the United States time to proceed in the interval to the necessary study of the question.

In view of what I have said, I have the honor to submit to the Council the following resolution: [1]

The Council adopts, together with the draft Protocol annexed thereto, the report submitted to it by the Committee of Jurists on the question of the accession of the United States of America to the Protocol of Signature of the Statute of the Permanent Court of International Justice.

Accordingly, it instructs the Secretary-General:

1. To reply to Mr. Kellogg's note of February 19, 1929, and communicate to the United States Government, together with the present Council resolution, the text of the said report and of the said draft Protocol;

2. To make the same communication to the states signatories of the Protocol of December 16, 1920, and to transmit also to those states the text of the resolution of the Senate of the United States, dated January 27, 1926, embodying the latter's reservations.

In order that the Assembly, being, like the Council, a body whose procedure in regard to the method of seeking Advisory Opinions from the Court would be affected by the adoption of the Protocol proposed by the Committee of Jurists, may have an opportunity of expressing its opinion thereon, the Council decides to instruct the Secretary-General to transmit to the Assembly the report of the committee and the draft Protocol and to place the question on the supplementary agenda of the tenth ordinary session of the Assembly.

[1] This resolution was transmitted on the same day by the Secretary-General to the Secretary of State.

VII. ASSENT OF UNITED STATES GOVERNMENT

1. Aide Mémoire presented on August 14, 1929, by the American Minister at Bern to the Secretary-General of the League of Nations [1]

The Minister of the United States to Switzerland has been instructed to acknowledge in person the courtesy of the Secretary-General of the League of Nations in forwarding his informal note of May 2, 1929, [2] and his formal note from Madrid dated June 12, 1929, [3] the latter inclosing the Council's resolution of June 12, 1929, League Document C. 142. M. 52. 1929. V, containing the texts of the report of the Committee of Jurists adopted at their session in Geneva, March 11 to March 19, 1929, and the annexed draft protocol as mentioned in the resolution regarding the question of American accession to the protocol of organization of the statute of the Permanent Court of International Justice.

The minister has been instructed at the same time to inform the Secretary-General that after careful examination the Secretary of State considers that the said draft protocol would effectively meet the objections represented in the reservations of the United States Senate and would constitute a satisfactory basis for the adherence of the United States to the Protocol and Statute of the Permanent Court of International Justice dated December 16, 1920, and that after the draft protocol has been accepted by the states signatory to the Protocol of Signature and the Statute of the Permanent Court he will request the President of the United States for the requisite authority to sign and will recommend that it be submitted to the Senate for its consent to ratification.

2. Statement by the Secretary of State, September 5, 1929 [4]

I have carefully examined the draft protocol recommended by the Committee of Jurists last spring for the purpose of meeting the objections represented by the reservations of the United States

[1] Reprinted from Department of State release, September 5, 1929.

[2] *Ad interim* note not here reproduced.

[3] Not here reproduced.

[4] Reprinted from Department of State release.

Senate in regard to the entry of the United States into the World Court and I have satisfied myself that this draft protocol, if ratified by the other signatory powers, would meet the objections raised by the Senate and fully protect the United States against the dangers anticipated by the Senate. Accordingly, last month I notified the Secretary-General of the League of Nations, who is presenting this to the other signatory powers, that the draft protocol met with my approval and that if it was accepted by the other states I would recommend to the President of the United States that it be signed and submitted to the Senate for its consent to ratification.

VIII. REPORT OF THE FIRST COMMITTEE TO THE ASSEMBLY OF THE LEAGUE OF NATIONS[1]

Rapporteur: M. Politis (Greece)

After the resolution adopted by the Senate of the United States on January 27, 1926, with regard to the adherence of the United States to the Protocol of Signature of the Statute of the Permanent Court of International Justice of December 16, 1920, a Conference of the Signatories of the said Protocol was held at Geneva in September, 1926, for the purpose of considering how effect might be given to the reservations and understandings embodied in the Senate resolution. The conference of 1926 prepared the draft of a protocol which it was believed would meet all the requirements of the situation, but unfortunately the Government of the United States, which had not been represented in the Conference, did not see its way to accept the protocol.

On February 19, 1929, the Government of the United States intimated by means of a note addressed to all the interested parties that an exchange of views might lead to an agreement with regard to the conditions upon which the United States desired to adhere to the Statute of the Court. Arrangements were accordingly made by the Council of the League that the Committee of Jurists which it had appointed in pursuance of the resolution of the Assembly dated September 20, 1928, on the subject of the examination of the Statute of the Court to see whether any amendments were necessary, should deal also with the question raised by the note from the United States Government and should make any suggestions which it felt able to offer with a view to facilitating the accession of the United States on conditions satisfactory to all the interests concerned.

It was of the greatest assistance to the Committee in the accomplishment of this additional task that among its members was to be found the Hon. Elihu Root, formerly Secretary of State of the United States, and one of the members of the committee which in 1920 framed the original draft of the Statute of the Court. His presence in the committee enabled it to re-examine with good

[1] Reprinted from A. 49. 1929. V. 15.

results the work accomplished by the Special Conference which met in 1926. The note from the United States Government to which reference is made above had shown that the margin of difference between the requirements of the United States and the recommendations made by the Special Conference was not great. For this reason, the Committee of Jurists adopted as the basis of its discussions the preliminary draft of a protocol which was annexed to the Final Act of that conference and introduced into it the changes which it believed were necessary in order to overcome the objections encountered by the draft of 1926 and to render it acceptable to all parties.

The revised draft protocol was submitted to the Council of the League and adopted by that body at its session at Madrid on June 12, 1929. It was placed on the agenda of the present session of the Assembly and also, in consequence of a resolution of the Council of August 31, 1929, upon that of the conference convened to consider the revision of the Court's Statute. This conference has now informed the Assembly that the text of the protocol has been approved by all the Governments represented in the conference and that there is every reason to believe that it will meet with unanimous acceptance. It is necessary, however, that the protocol should be formally approved by the Assembly of the League before it is opened for signature, as the agreement which it embodies will affect the right of the Assembly to ask for an advisory opinion from the Court.

No difficulty has at any time been felt with regard to the acceptance of the conditions laid down by the United States in the Senate resolution of January 27, 1926, except in so far as they relate to advisory opinions. A simple solution of these difficulties would have been found had it been possible to agree that the system of asking the Court for an advisory opinion upon any particular question should be abandoned altogether. So drastic a solution, however, is not at present feasible. The system of asking the Court for an advisory opinion has proved to be of substantial utility in securing a solution of questions which could not conveniently be submitted to the Court in any other form. It has also on occasions enabled the parties to a dispute to ask for the submission of their differences to the Court in the form of a request for an advisory opinion when they were for various reasons unwilling to submit them in the form of international litigation.

Another method by which satisfaction might easily have been given to the conditions laid down by the United States would

have been that of adopting a rule that in all cases a decision on the part of the Council or of the Assembly to ask for an advisory opinion from the Court must be unanimous. As was pointed out in the Final Act of the special conference of 1926, it is not possible to say with certainty whether a decision by a majority is not sufficient. On this point, all that is possible is to guarantee to the United States a position of equality with the states which are represented in the Council or the Assembly of the League.

The investigation of the whole subject which was made by the Committee of Jurists showed that the conditions with which the Government of the United States thought it necessary to accompany the expression of its willingness to adhere to the protocol establishing the Court owed their origin to apprehension that the Council or the Assembly of the League might request from the Court advisory opinions without reference to the interests of the United States, which might in certain cases be involved. Those discussions also showed that the hesitation felt by the delegates to the conference of 1926 as to recommending the acceptance of those conditions was due to apprehension that the rights claimed in the reservations formulated by the United States might be exercised in a way which would interfere with the work of the Council or the Assembly and embarrass their procedure.

The system of asking a judicial tribunal for advisory opinions is one which does not exist at all in the Constitution of the United States of America, and it is not unnatural that some misapprehension should be entertained in that country as to the rôle which the Permanent Court of International Justice fulfils in giving advisory opinions on questions submitted to it by the Council or the Assembly of the League. The procedure followed by the Court in dealing with the questions submitted to it for an advisory opinion is in fact almost identical with the procedure which is followed in dealing with contentious cases.

Misapprehension appears also to exist in the United States as to the powers of the Council to give effect to the opinions rendered by the Court on questions submitted to it by the Council or the Assembly. It has, for instance, been suggested that the provisions of the concluding paragraph of Art. 13[1] of the Covenant would

[1] The article relates to settlement of disputes between Members of the League by arbitration or judicial methods. The concluding paragraph reads:

"4. The Members of the League agree that they will carry out in full good faith any award *or decision* that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award *or decision*, the Council shall propose what steps should be taken to give effect thereto."

enable the Council to oblige the Members of the League to resort to war for the purpose of enforcing such an opinion.

This view is erroneous. The last paragraph of Art. 13 relates only to awards or decisions, not to advisory opinions. Advisory opinions are given by the Court at the request only of the Council or the Assembly of the League and in general only for the purpose of guiding the organs of the League or the International Labor Office in questions which come before those bodies in the execution of their duties. They are opinions only and in theory are not binding. Even in cases where an advisory opinion was asked for by the Council or the Assembly at the request of individual States which preferred to submit their disputes to judicial settlement through the machinery of an advisory opinion rather than by direct submission to the Court, the powers of the Council would not go beyond its general duty of securing respect for treaty engagements by insuring that parties which submit their dispute for decision by a tribunal shall execute in good faith the decision which may be rendered. The power of the Council under Art. 13, par. 4, in connection with awards or judicial decisions, is limited to "*proposing*" measures for the purpose of giving effect to them. It can not do more. It certainly could not oblige states to take measures which would violate their treaty engagements.

The discussions which took place in the Committee of Jurists showed that it was useless to attempt to allay the apprehensions on either side referred to above by the elaboration of any system of paper guarantees or abstract formulae. The only satisfactory method would be to deal with the problem in a concrete form, to provide some method by which the parties might be brought into contact so that questions as they arise might be examined and views exchanged and a conclusion thereby reached after each side had made itself acquainted with the difficulties and responsibilities which beset the other. This is the method which the committee recommended should be adopted and to provide for which it submitted the text of a protocol to be concluded between the states which signed the Protocol of 1920 and the United States of America. This view has been endorsed by the Conference which has recently concluded its labors, and the First Committee now recommends that it should be adopted by the Assembly.

The note of February 19, 1929, from the United States had made it clear that that Government has no desire to interfere with the work of the Council or the Assembly of the League and that there is no intention on the part of that Government to hamper, upon

unreal or unsubstantial grounds, the machinery by which advisory opinions are from time to time requested. This rendered it possible for the committee to recommend that the states which signed the Protocol of 1920 should accept the reservations formulated by the United States upon the terms and conditions set out in the articles of the draft protocol which the committee prepared and which is now annexed to this report.[1] The important article is No. 5, which provides machinery by which the United States will be made aware of any proposal before the Council or the Assembly for obtaining an advisory opinion and will have an opportunity of indicating whether the interests of the United States are affected, so that the Council or the Assembly, as the case may be, may decide its course of action with full knowledge of the position. It may be expected that the exchange of views so provided for will be sufficient to insure that an understanding will be reached and no conflict of views will remain.

The provisions of this article have been worded with due regard to the exigencies of business in the Council of the League. The desirability of obtaining an advisory opinion may only become apparent as the session of the Council is drawing to a close and when it may not be possible to complete the exchange of views before the members of that body separate. In that case, it will be for the Council to give such directions as the circumstances may require, in order to insure that the intentions of the article are carried out. The request addressed to the Court may, for instance, be held up temporarily, or it may be dispatched with a request that the Court will nevertheless suspend action on the request until the exchange of views with the United States has been completed. The provisions of the article have purposely been framed so as to afford a measure of elasticity in its application. Similarly, if the Court has commenced the preliminary proceedings consequent upon the receipt of the request for an advisory opinion and has given notice of the request to the United States in the same way as to the other Governments, the proceedings may, if necessary, be interrupted in order that the necessary exchange of views may take place. What is said in this paragraph with regard to requests for advisory opinions made by the Council would also apply to requests by the Assembly in the event of the Assembly making any such request.

The provisions of this article should in practice afford protection to all parties in all cases; but, if they do not, it must be recognized

[1] This document in its completed form is No. IX, following.

that the solution embodied in the present proposal will not have achieved the success that was hoped for and that the United States would be fully justified in withdrawing from the arrangement. It is for this eventuality that provision is made in the last paragraph of the article. It may be hoped that, should any such withdrawal by the United States materialize, it would in fact be followed or accompanied by the conclusion of some new and more satisfactory arrangement.

In order to insure so far as possible that the parties to the Protocol of 1920 shall be identical with the parties to the new Protocol, Art. 6 provides that any State which in future signs the Protocol of 1920 shall be deemed to accept the new Protocol.

The remaining provisions of the draft Protocol do not call for detailed comment, because they are in substance similar to the corresponding provisions of the Draft Protocol of 1926.

For these reasons the First Committee submits the following resolution to the Assembly:

"The Assembly adopts the draft Protocol relating to the adherence of the United States of America to the Protocol of Signature of the Statute of the Permanent Court of International Justice."

It is understood that, if this resolution is adopted by the Assembly, the Secretary-General will proceed forthwith to open the Protocol for signature.

IX. PROTOCOL REGARDING THE ACCESSION OF THE UNITED STATES OF AMERICA TO THE PROTOCOL OF SIGNATURE OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE OPENED FOR SIGNATURE AT GENEVA, SEPTEMBER 14, 1929[1]

The states signatories of the Protocol of Signature of the Statute of the Permanent Court of International Justice, dated December 16, 1920, and the United States of America, through the undersigned duly authorized representatives, have mutually agreed upon the following provisions regarding the adherence of the United States of America to the said Protocol, subject to the five reservations formulated by the United States in the resolution adopted by the Senate on January 27, 1926.

ART. 1. The states signatories of the said Protocol accept the special conditions attached by the United States in the five reservations mentioned above to its adherence to the said Protocol upon the terms and conditions set out in the following articles.

ART. 2. The United States shall be admitted to participate, through representatives designated for the purpose and upon an equality with the signatory states Members of the League of Nations represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice, provided for in the Statute of the Court. The vote of the United States shall be counted in determining the absolute majority of votes required by the Statute.

ART. 3. No amendment of the Statute of the Court may be made without the consent of all the contracting states.

ART. 4. The Court shall render advisory opinions in public session after notice and opportunity for hearing substantially as provided in the now existing Arts. 73 and 74 of the Rules of Court.

ART. 5. With a view to insuring that the Court shall not, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest, the Secretary-General of the League of Nations shall, through any channel designated for that purpose by the United States, inform the United States of any

[1] Reprint from the certified copy in League Document C. 493. M. 157. 1929. V. The text is identically that drawn up by the Committee of Jurists, March 18, 1929. The Council of the League submitted it to the Conference of Signatory States held September 4–12, which adopted it without change, as did the Assembly on September 14.

proposal before the Council or the Assembly of the League for obtaining an advisory opinion from the Court, and thereupon, if desired, an exchange of views as to whether an interest of the United States is affected shall proceed with all convenient speed between the Council or the Assembly of the League and the United States.

Whenever a request for an advisory opinion comes to the Court, the Registrar shall notify the United States thereof, among other States mentioned in the now existing Art. 73 of the Rules of Court, stating a reasonable time limit fixed by the President within which a written statement by the United States concerning the request will be received. If for any reason no sufficient opportunity for an exchange of views upon such request should have been afforded, and the United States advises the Court that the question upon which the opinion of the Court is asked is one that affects the interests of the United States, proceedings shall be stayed for a period sufficient to enable such an exchange of views between the Council or the Assembly and the United States to take place.

With regard to requesting an advisory opinion of the Court in any case covered by the preceding paragraphs, there shall be attributed to an objection of the United States the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations in the Council or in the Assembly.

If, after the exchange of views provided for in pars. 1 and 2 of this article, it shall appear that no agreement can be reached and the United States is not prepared to forego its objection, the exercise of the powers of withdrawal provided for in Art. 8 hereof will follow naturally without any imputation of unfriendliness or unwillingness to cooperate generally for peace and good will.

Art. 6. Subject to the provisions of Art. 8 below, the provisions of the present Protocol shall have the same force and effect as the provisions of the Statute of the Court and any future signature of the Protocol of December 16, 1920, shall be deemed to be an acceptance of the provisions of the present Protocol.

Art. 7. The present Protocol shall be ratified. Each state shall forward the instrument of ratification to the Secretary-General of the League of Nations, who shall inform all the other signatory states. The instruments of ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The present Protocol shall come into force as soon as all states which have ratified the Protocol of December 16, 1920, and also the United States, have deposited their ratifications.

ART. 8. The United States may at any time notify the Secretary-General of the League of Nations that it withdraws its adherence to the Protocol of December 16, 1920. The Secretary-General shall immediately communicate this notification to all the other states signatories of the Protocol.

In such case the present Protocol shall cease to be in force as from the receipt by the Secretary-General of the notification by the United States.

On their part, each of the other contracting states may at any time notify the Secretary-General of the League of Nations that it desires to withdraw its acceptance of the special conditions attached by the United States to its adherence to the Protocol of December 16, 1920. The Secretary-General shall immediately give communication of this notification to each of the states signatories of the present Protocol. The present Protocol shall be considered as ceasing to be in force if and when, within one year from the date of receipt of the said notification, not less than two-thirds of the contracting states other than the United States shall have notified the Secretary-General of the League of Nations that they desire to withdraw the above-mentioned acceptance.

Done at Geneva, the fourteenth day of September, nineteen hundred and twenty-nine, in a single copy, of which the French and English texts shall both be authoritative.

[Up to October 1, 1929, the Protocol had been signed on behalf of the following states:

Australia
Austria
Belgium
Bolivia
Brazil
Bulgaria
Canada
Chile
China
Colombia
Cuba
Czechoslovakia
Denmark
Dominican Republic
Estonia
Finland
France
Germany
Great Britain and Northern Ireland and all Parts of the British Empire not separate Members of the League of Nations
Greece
Guatemala
Haiti
Hungary
India
Irish Free State
Italy
Japan
Latvia
Liberia
Luxemburg
Netherlands
New Zealand
Nicaragua

Norway
Panama
Paraguay
Persia
Peru
Poland
Portugal
Rumania
Salvador
Serb-Croat-Slovene State
Siam
South Africa, Union of
Spain
Sweden
Switzerland
Uruguay
Venezuela]

THE REPARATION SETTLEMENT

By DENYS P. MYERS

WORLD PEACE FOUNDATION PAMPHLETS
40 MT. VERNON STREET, BOSTON
VOL. XII 1929 NO. 5

Copyright, 1929
By World Peace Foundation
Boston, Massachusetts

CONTENTS

		PAGE
I.	THE DEVELOPMENT OF THE PROBLEM	1
	Spa percentages of distribution	4
	"Sanction" of Ruhr occupation	7
	The Dawes Plan	9
	Agreement for final settlement	14
II.	THE LIQUIDATION OF THE PROBLEM	18
	1. The Committee of Experts, 1929	18
	Elements of the New Plan	20
	2. First Conference of Governments	22
	The August Conference meeting	23
	The British demands	25
	3. Elimination of Sanctions	28
	End of Rhineland occupation	31
	4. Final Session of Conference	35
	German Nationalist opposition defeated	37
	Final documents of the Conference	39
	Special decisions of the Conference	44
III.	ESTABLISHMENT OF ANNUITIES	50
	Schedule of Annuities	52
	Features of the annuities	53
	Amount and distribution of annuities	56
	Adjustments between annuity years	59
	Adjustments for transitional period	61
	Special United States position	64
	Source of the annuities	67
	The nonpostponable portion	73
	The postponable portion	77
	Deliveries in kind	80
	Dawes annuity distribution	86
	By countries	86
	By classes	87
IV.	THE BANK FOR INTERNATIONAL SETTLEMENTS	88
	1. Abolition of semi-political organizations	88
	The system supplanted	89
	2. The structure and functions of the Bank	92
	Objects and capital distribution	94
	Operations and functions	96
	The annuity trust account	98
	Directorate and management	100
	Distribution of Profits	102
	Instrument of international cooperation	104
V.	COMMERCIALIZATION AND MOBILIZATION	106
VI.	LIQUIDATION OF THE PAST	112
	Pre-Dawes accounts obsolete	114
	Dissolution of joint liability	116
	Unliquidated property	124

PAGE

VII. Payment of Governmental Debts 128
The Belgian "marks" settlement 135
Sums to be paid by Germany to Belgium . . . 139

Conspectus of All Reparation Payments 140

Receipts on All Accounts, 1930–36 141

APPENDIX 142
I. The New Plan 142
1. Report of the Committee of Experts, June 7, 1929 . 142
1. Appointment, terms of reference and Constitution 143
2. Meetings of committee 144
3. Attitude of the committee 145
4. The study of Germany's economic conditions . 146
5. Course of the proceedings 148
6. Bank for International Settlements . . 151
A. General reasons for the constitution of an institution with banking functions 151
B. Organization of the Bank . . . 153
C. General observations on the Bank . 155
7. The influence of the form of the annuity on the amount 157
8. Annuities 158
Composition of the annuities 162
8(*a*). Source and securities 162
8(*b*). Progression 166
8(*c*). The nonpostponable annuities . . . 166
8(*d*). The postponable annuities . . . 167
8(*e*). Measures of safeguard 167
8(*f*). Deliveries in kind 169
9. Liquidation of the past 171
10. Commercialization and mobilization . . 173
11. The New Plan contrasted with the Dawes Plan 174
12. Conclusions 176
Annexes:
(Annexes I–VI, indicated) 178
Annex VII. Distribution of the annuities proposed by the Experts of the creditor countries represented on the Committee . . . 179
Table showing the distribution of Deliveries in Kind among the creditor powers . . . 184
Annex VIII. Guaranty Fund in respect of unconditional annuities . . . 187
2. Protocol approved at the plenary session of the Hague Conference held on August 31, 1929 188
Annex I. Financial agreement between the Belgian, British, French, Italian and Japanese delegations, and the German delegation, in so far as Germany is concerned . . 188
Annex II. Agreement regarding Deliveries in Kind 190
Appendix I to Annex II . . 191
3. Agreement with Germany 192

PAGE

II. THE BANK FOR INTERNATIONAL SETTLEMENTS . . . 203
1. Convention respecting the Bank for International Settlements, signed at The Hague, January 20, 1930, incorporates 203
Constituent Charter of the Bank for International Settlements 204
Annex: Statutes of the Bank for International Settlements 206
Chapter I. Name, seat and objects . . 206
Chapter II. Capital 207
Chapter III. Powers of the Bank . . 209
Chapter IV. Management 212
Chapter V. General Meeting . . . 215
Chapter VI. Accounts and profits . . 216
Reserve funds 218
Chapter VII. General provisions . . . 218
2. Form of Trust Agreement between the Creditor Governments and the Bank for International Settlements 220
[Exhibit A] Debt certificate of the German Government 232

III. INTERGOVERNMENTAL INDEBTEDNESS 239
1. Arrangement relating to the concurrent memorandum accompanying the Experts' Plan of June 7, 1929 239
Annex: Special Memorandum of the Experts of the Principal Creditor Powers and of Germany regarding Out-Payments 241
2. Agreement between Germany and the United States 243
Agreement 243
Notes exchanged simultaneously with execution of the Agreement 248

THE REPARATION SETTLEMENT

By Denys P. Myers

I. THE DEVELOPMENT OF THE PROBLEM

The Report of the Committee of Experts, 1929, which was rendered to the Governments interested in reparation and to the Reparation Commission on June 7, 1929, together with the ensuing decisions of the Hague conference of August 6–31, 1929, and January 3–20, 1930, closed a chapter in the most complicated field of postwar economic relations. The New Plan[1] liquidated the political elements in a key economic problem and provided for the payment of the large intergovernmental indebtedness involved. The acceptance of the Report of the Committee of Experts by the Governments and the implementation which they gave it in the two sessions of their own conference create a system for the payment of the reparation debt which conforms to the best attainable application of financial principles and practice and establishes machinery in the Bank for International Settlements for handling the intergovernmental payments involved on a normal banking basis. The new system of payments entered into force provisionally on September 1, 1929, and the whole complicated settlement formally and finally became a reality on May 17, 1930.

The final protocol of the Hague conference enacted 14 agreements by which there were effectively settled every outstanding claim or counterclaim for reparation in relation

[1] The New Plan consists of the Report of the Committee of Experts, 1929, (the Young Plan), the protocol of August 31, 1929, and the agreement of January 20, 1930; see Appendix, I.

to the World War and arising out of the armistice conventions, the treaty of Versailles or other treaties of peace, and agreements for their execution. All functions previously performed by organs established by those instruments and still necessary to be performed were transferred to the Bank for International Settlements. Good faith alone is the sanction of the system. In case of dispute over its interpretation or application, the Tribunal of Interpretation existing under the Dawes Plan shall hear it.[1]

The Committee of Experts was intrusted with "the task of drawing up proposals for a complete and final settlement of the reparation problem." The fundamental contribution which they made to the solution of the problem of reparation was the determination of the amount (which includes the number) of the annuities due from Germany and the determination of an economic method by which they may be discharged, especially providing for the "commercialization" of a part of the total.[2]

It will be enlightening to indicate the advance of the reparation problem from an inchoate mass of contentions[3] to a condition in which agreement upon these finally outstanding features made possible its elimination from international controversy. At the close of the World War no responsible statesman claimed that it was possible for the victors to impose an indemnity upon the vanquished. The victors were, however, insistent that reparation for damage done was not only necessary but just. The negotiations at the Peace Conference at Paris were essentially unilateral, consisting of the development of a treaty text by the victors and its acceptance by the vanquished under a form of ultimatum. Characteristics of the reparation settlement, which

[1] This tribunal for five years was to be composed of the incumbents: President, Thomas Nelson Perkins (American); neutrals, Marcus Wallenberg (Swedish) and A. G. Kröller (Dutch); creditors, Charles Rist (French); debtor, A. Mendelssohn Bartholdy (German). Mr. Perkins, however, resigned before the New Plan came into force.

[2] On this phase of the settlement, see p. 106.

[3] The summary is based upon *Reparation*, Parts I–VI, in this Series, in which the writer gives a continuous documented history of the subject from its inception until the Reports of the Agent General for Reparation Payments began under the terms of the Dawes Plan in 1925.

originally came into force by the treaty of Versailles on January 10, 1920, were:

1. Joint and several acceptance of responsibility for "all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected" by Germany, Austria, Hungary and Bulgaria; [1]

2. The establishment of the Reparation Commission to manage the interests of the creditors;

3. The collection of evidence as to the amount "of damage done to the civilian population of the Allied and Associated Powers and to their property" (which was stipulated to include military pensions and family allowances); [2]

4. The fixation of the total amount by the commission on the basis of the claims and after giving the debtors "a just opportunity to be heard;" [3]

5. The amount thus fixed could not be changed except by the creditor Governments;

6. Various immediate payments and credits were provided for, passing at the outset through a special account. In addition, various immediate deliveries of commodities and the transfer of properties were provided for, while extensive provision for restitution of articles subject to the plundering incidental to war was stipulated;

7. In the case of Germany, the reparation debt was to be evidenced by the delivery of bonds to the Reparation Commission, which bonds were to be subject to 5% interest and to 1% sinking fund from May 1, 1921; [4]

8. As a guaranty for the execution of the treaty with Germany, German territory west of the Rhine and three bridgehead zones east of the Rhine were occupied by Allied and Associated troops for five, ten and fifteen years respectively.[5] In case the Reparation Commission "finds

[1] *Reparation*, Part I, p. 17; see also *infra*, p. 116 *ff*.

[2] *Ibid.*, p. 29; Part II, p. 48–90.

[3] *Ibid.*, Part II, p. 75–79.

[4] *Ibid.*, Part III, p. 195.

[5] Treaty of Versailles, Arts. 42–44, 428, 432; Harold W. V. Temperley, *History of the Peace Conference at Paris*, II, p. 113.

that Germany refuses to observe her reparation obligations," part or all of these zones might be reoccupied.

The first available assets under reparation were the properties of ex-enemy subjects situated in the territories of the creditors; the delivery of articles under the treaties was the second. Both had to be distributed.

Spa Percentages of Distribution

The first important problem solved by the creditors was the determination of the percentages of the whole which they were respectively to receive. The Spa agreement of July 16, 1920,[1] though later modified in detail, remained operative until it was superseded by Annex VII of the Report of the Committee of Experts, 1929, as revised by the Hague conference. The Spa percentages in their 1929 proportions were:

France			54.45%
British Empire			23.05%
Great Britain	86.85%	20.01024	
Minor colonies	0.80%	0.18432	
Canada	4.35%	1.00224	
Australia	4.35%	1.00224	
New Zealand	1.75%	0.40320	
India	1.20%	0.27648	
South Africa	0.60%	0.13824	
Newfoundland	0.10%	0.02304	
Italy			10.00%
Yugoslavia			5.00%
Belgium			4.50%
Rumania			1.10%
Portugal			0.75%
Japan			0.75%
Greece			0.40%

The keenest kind of an argument took place as to the amount of damage which should be charged to the debtors, particularly Germany. Various conferences of the allied creditors took place upon this subject. The treaty of Versailles mentioned, without definitely indicating that

[1] *Reparation*, Part II, 55.

they represented a total, three series of bonds 20, 40, and 40 billion gold marks,[1] face value, respectively. The German delegation to the Peace Conference was willing to accept an obligation to pay an amount not exceeding 100,000,000,000 gold marks, on which apparently no interest was contemplated. At the Boulogne Conference in June, 1920, the allied premiers tentatively agreed to demand 269,000,000,000 gold marks, which sum would have involved an eventual payment of 400,000,000,000 gold marks. The Reparation Commission had considerable difficulty in securing statements of the claims of the creditors which were to be met by reparation under the treaties. When the commission closed its receipt of claims on February 12, 1921, it had before it, on the basis of the exchange of that day, claims which reached a total of 226,000,000,000 gold marks. The German Government sharply contested the justice of some amounts. On April 27, 1921, the Reparation Commission unanimously decided that "the amount of damages for which reparation is due" was 132,000,000,000 gold marks. The formal Schedule of Payments was transmitted by the allies to Germany, May 5, 1921, along with an ultimatum relating to other matters. This schedule, accepted by Germany, provided, with certain additions and subtractions, a total reparation debt as follows:

A bonds, 12,000,000,000 gold marks, 5% interest, 1% sinking fund; coupon bonds delivered July 1, 1921.

B bonds, 38,000,000,000 gold marks, 5% interest, 1% sinking fund; coupon bonds delivered November 1, 1921.

C bonds, 82,000,000,000 gold marks; delivered without coupons attached November 1, 1921, arrangements as to interest and sinking fund deferred.[2]

At the time this Schedule of Payments was not deemed to express reality. It was assumed that the practical liability of Germany was at most the 50,000,000,000 gold

[1] The gold mark and the Reichsmark are both worth 23.8 cents gold, or 4.2 marks to the dollar.

[2] See in general *Reparation*, Part II, p. 48–90, and Schedule of Payments, *Reparation*, Part III, p. 195.

marks of the A and B bonds, while it was recognized that payments by other reparation debtors — Austria, Hungary, Bulgaria — would be credited to the Series C bonds. There were, also, earmarked to crediting against Series C bonds various sums awarded to Germany as a result of disputed appraisals, notably the difference between the creditors' estimate of the value of shipping delivered by Germany and the sum credited to Germany by the Reparation Commission. The Schedule of Payments contemplated that amounts credited to Germany should serve to cancel an equivalent value of A or B bonds. This system was never effectively operated. As a consequence, none of the bonds was ever canceled.

The major campaign of the Great War on the western front took place upon the soil of northeastern France. As a consequence of the military operations it was France, one of the victorious states, which sustained the bulk of the devastation resulting from the war. This circumstance made France a principal creditor which enjoyed wide sympathy for its plight. The demand of France for payments sufficient to restore the devastated area created a heavy pressure upon Germany to turn over large sums immediately and resulted in complications with the other creditors, who claimed a right, *pari passu*, to benefit from German payments.

The reparation parts of the treaties of peace provided both for the delivery of specified commodities and for a system of delivering commodities as one form of paying the reparation debt. These deliveries in kind brought a certain resistance from some of the creditors. It was felt that the delivery of articles normally capable of being handled in ordinary trade would tend to increase the foreign commerce of the debtors, with a possible disadvantage to the commerce of the creditors. Great Britain took the initiative in meeting the problem by the passage of the Reparation Recovery Act in 1921 which provided, in effect, that 26% of the value of German goods imported into Great Britain should be paid to the British Government and credited to Germany

as a reparation payment, Germany in turn making a payment to its exporting national equivalent to that amount. Similar legislation was also passed by France and was put into operation in 1924. These acts tended to prevent reparation from increasing the debtor's trade volume.

Meanwhile much attention was given to developing a system for managing deliveries in kind and eventually a very complicated set of regulations, embodying many previous decisions, was issued by the Reparation Commission (the Wallenberg regulations) in 1925, subsequent to the entrance of the Experts' Plan into force.[1]

Another form of commodity payment which was contemplated, but which was slow to be put into operation, was the construction of public works. Programs for such construction in France were made by the German Government, but the fear of resulting unemployment complicated their acceptance until after the Dawes Plan was in effect.[2]

"Sanction" of Ruhr Occupation

By 1923 the German payments, having for various reasons been confined chiefly to monetary payments and credits for overseas and other possessions, were on the decrease. France and Belgium, in particular, felt keenly the need for increasing payments. The creditors were then opposed to reducing their claims to an amount which Germany was willing to pay.

Other considerations of a political character weighed with the creditors and had the effect of casting doubt upon the Government's statements of the ability of the German economy. Among these were German resistance to compliance with the disarmament clauses of the treaty of Versailles, the friction due to allied control over the occupied zones along the Rhine, and French encouragement of the Separatist movement in the Palatinate and adjacent parts of Germany.

[1] For text of the regulations see Reparation Commission, *Official Documents*, IX; for prior history and Wiesbaden agreement see *Reparation*, Part II, p. 135 *ff*.

[2] *Reparation*, Part VI, p. 144.

By Par. 18, Annex II, Part VIII, of the treaty of Versailles the creditors, "in case of voluntary default by Germany" had the right to take "economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances;" and Germany agreed not to regard these measures as acts of war. Following various proposals for settlement, based upon reports of experts appointed both by the Reparation Commission and the German Government, the representatives of the creditors and Germany were unable to agree. During 1921 the creditors sought to get payments by arranging definite programs of delivery. Schedules of coal delivery were drawn up, were not met completely, and France toward the end of that year sought a decision that Germany was in default. The Reparation Commission found means of compromising that dispute.[1]

On December 1 and December 26, 1922, however, the Reparation Commission, on the initiative of the French Government, decided that certain deliveries of timber in that year constituted a default by Germany under Par. 17, Annex II, Part VIII, of the treaty, which refers to a "default" rather than a "voluntary default." The technical deficit was admitted by Germany. On December 26 the Reparation Commission, "in the exercise of its powers of interpretation," passed a resolution by which it decided "that the word 'default' in Par. 17 of the said Annex has the same meaning as the expression 'voluntary default' in Par. 18." [2]

As a result of this decision the French Government held that it was justified in occupying the Ruhr metallurgical district of Germany. In January, 1923, French and Belgian troops entered that region and Italian troops joined those of the allies in the Rhineland occupied zones. The French occupation of the Ruhr continued until September,

[1] *Report on the Work of the Reparation Commission from 1920 to 1922*, Reparation Commission, V. p. 105.

[2] For text of the minutes see *ibid.*, p. 240 *ff.*

1924, as a form of seizing pledges and of requisitioning in kind in recovery of reparation debts. The expenses of the occupation were recovered and, in addition, the net receipts on reparation account for 21 months of military self-help credited to France amounted to 312,901,159.37 gold marks.[1]

The occupation of the Ruhr resulted in the practical cessation of reparation payments except as they were collected by the occupying forces or by such automatic devices as the Reparation Recovery Acts. The German Government and people declined to admit the justification of that occupation and attempted a régime of passive resistance; they further bent a large amount of economic energy to the support of strikers in the region affected. The financial condition of the Government deteriorated rapidly and the anomalous conditions resulting attracted wide-spread attention.

In October, 1923,[2] the British Government inquired whether the United States would be willing to participate in an inquiry looking to the solution of the situation. While the Government of the United States desired "to lend its assistance in any manner that may be found feasible," it found it advisable to "reserve decision as to its course of action."

The Dawes Plan

On November 30, 1923, the Reparation Commission decided to create two committees of experts "belonging to allied and associated countries" to inquire into "the resources and capacity of Germany." One committee was to study "the means of balancing the budget and measures to be taken to stabilize the currency," which at that time had depreciated to such an extent that the percentage of the cost of the dollar as compared with par in November, 1923, was 96,134,200,000,000.[3] The other committee was

[1] *Le Temps*, June 29, 1929.

[2] *Reparation*, Part V, p. 338. On the suggestion of Secretary of State Hughes of December 29, 1922, see *ibid.*, p. 334.

[3] League of Nations, *Monthly Bulletin of Statistics*, Table XIV. The average for 10 months of 1924 was 103,730,600,000,000.

to consider the means of estimating the amount of exported capital and of bringing it back to Germany.

In the lengthy discussions respecting the German capacity and disposition to pay, the flight of capital from that country had played a highly interesting part. That Germany was not paying enough to meet the service of the A and B bonds issued was obvious; that German currency was steadily depreciating was notorious; that there were blocks of German marks abroad was well known. It was alleged that Germans were deliberately exporting capital in order to avoid its taxation for reparation purposes; and it was also asserted that this movement of capital had for an object the deliberate ruin of the country so that reparation would be unpayable. These allegations made a deep impression upon some of the politically minded. The Second Committee of Experts was charged with determining the truth respecting this situation. It was headed by Reginald McKenna, sometime Chancellor of the British Exchequer. The committee in its report of April 9, 1924, analyzed the conditions which attend the migration of capital and found that its so-called flight in the German instance "was in the main the result of the usual factors." Speculation had been markedly a contributing factor. The committee reported that the normal remedies for the situation were the only ones that were applicable to Germany, namely, the attainment of stability and the restoration of confidence. The report attracted no subsequent attention; but it stopped discussion of an unreal factor which had served to cloud and complicate the reparation problem over a period of years.

The First Committee of Experts produced what is known as the Experts' (Dawes) Plan which transformed the operation of reparation payment from a political to an economic procedure. The committee was appointed by the Reparation Commission and consisted of two national experts each acceptable to the admittedly interested governments, and two nationals of the United States. The Americans chosen to serve on the committee were General

Charles G. Dawes and Owen D. Young, neither of whom was unacceptable to the United States Government. The former, having been made chairman of the committee with the consequence that the resulting plan bears his name, was duly elected Vice-President of the United States in November, 1924.

The First Committee of Experts sat from January 14 to April 9, 1924. Its report [1] was declared by the Reparation Commission on April 11 to "offer a practical basis for the rapid solution of the reparation problem." The Governments concerned — Belgium, British Empire, France, Italy, Yugoslavia [2] — favored proceeding on its basis and the organization committees provided in the plan forthwith started work. The states concerned met with Germany in a conference at London, July 16 to August 16, 1924, and in a series of agreements worked out in detail the methods for bringing the plan into force. The United States consented to send official delegates to this conference "with strictly limited powers," which would not include "signature of the agreements reached." The agreements and protocols of the conference [3] entered into force on August 30, on which date the necessary German legislation in connection with the plan became law. On January 14, 1925,[4] an agreement was signed at Paris (commonly referred to as "the finance ministers' agreement") regarding the distribution of the annuities provided for under the plan. The United States, as one of the recipients, signed this agreement, to which the parties were the Governments of Belgium, France, Great Britain, Italy, Japan, United States, Brazil, Greece, Poland, Portugal, Rumania, Yugoslavia and Czechoslovakia. The plan itself entered into force on September 1, 1924, and was

[1] See text of both reports in *Reparation*, Part V, and in Reparation Commission, *Official Documents*, XIV.

[2] The name of the Kingdom of the Serbs, Croats and Slovenes was changed to Yugoslavia by decree of October 3, 1929. (*L'Europe nouvelle*, Oct. 26, 1929, p. 1436.)

[3] *Reparation*, Part VI, p. 236 *ff*; Reparation Commission, *Official Documents*, XIV, where the laws are also given.

[4] *Reparation*, Part VI, p. 276.

succeeded on September 1, 1929, by the plan of the Committee of Experts, 1929.

The Dawes Plan confined its recommendations to the two points which had been assigned for consideration: the means of balancing the budget and the measures to be taken to stabilize the currency. Approaching these questions from the standpoint of business rather than politics, the committee found itself under the necessity of determining the foreign debt obligation of the German Government and of devising means of recovering its annual amounts from the German economy; of providing for the transfer of payments to the creditors; of devising methods of financial and currency reconstruction, and of insuring economic guaranties for the continuance of the payments stipulated, consistent with German financial autonomy. In brief the plan provided:

1. The establishment of a new Reichsbank and new currency, with the aid of an external gold loan.

The result was the complete stabilization of the German currency [1] and financial economy.

2. The fixation of annuities, the payment of which was to "comprise all amounts for which Germany may be liable to the Allied and Associated Powers for the costs arising out of the War, including reparation, restitution, all costs of all armies of occupation, clearing house operations, to the extent of those balances which the Reparation Commission decide must legitimately remain a definitive charge on the German Government, commissions of control and supervision, etc."

The result was the cessation of all bickering with Germany over collateral and incidental charges or payments.

3. The assumption by the creditors of any exchange hazard. Payment in German currency into the Reichsbank to the credit of the Agent-General for Reparation Payments was "the definitive act of the German Government in meeting its financial obligations under the plan."

As a brilliant financial economist, the late Jacques

[1] For details see League of Nations, *Monthly Bulletin of Statistics*, Table XIV.

Seydoux, has said, "reparation ceased to be c. i. f. and became f. o. b."

4. The sources of the annuities were defined. One half of a standard annuity of 2,500,000,000 gold marks [1] was to come ultimately from the German budget, this payment being collaterally secured by the produce of certain assigned revenues subject to control by a commissioner appointed by the creditors. A second portion of the annuity was a specified amount from a direct tax on transport. A third amount was raised by transferring the German Government railway system to the German Railway Company, which transferred its own bonds to a commissioner appointed by the creditors. A final portion of the annuity consisted of debt service on "industrial debentures." Under complicated processes a debt liability was accepted by industrial corporations, and against this liability were issued industrial debenture bonds in favor of the commissioner of the creditors.

The result was the raising of money for reparation payments by substantially normal fiscal processes.

5. The dependence of the reparation payments on the service of the German railway and the industrial debenture bonds created a basis for "commercializing" a part of the reparation debt.

This was much discussed, but was not put into execution under the Dawes Plan.

6. In behalf of the creditors a Transfer Committee was established to manage the transfer of payments across the exchanges.

This committee worked successfully and transferred an increasing proportion of total payments in cash forms, eventually amounting to over 50% of the total.

7. The whole system was supervised by the Agent-General for Reparation Payments, S. Parker Gilbert, whose very efficient organization contributed materially to the success of the plan.

[1] The annuities in years prior to the fifth were derived from the same sources, but in smaller amounts. A "prosperity index" would have modified the total in subsequent years.

The Agent-General's authority had the effect of coordinating the system into a smoothly running machine with benefits to the German fiscal system and advantages to the creditors.

8. The entire system being specific and fully worked out, the Dawes Plan indicated, and the agreements of the London conference provided in detail for, the smoothing out of all friction concerning it by appropriate arbitral methods, 19 separate types of jurisdiction being provided.[1] The most important of these is the Tribunal of Interpretation between the Reparation Commission and the German Government.

This procedure obviated the likelihood of friction, due to the operation of the plan, developing a political problem.

9. The Reparation Commission, while continued in existence, was substantially superseded.

Agreement for Final Settlement

The successful operation of the Dawes Plan thus eliminated a great many of the difficulties which the reparation problem had developed. The great service which the Plan rendered was that it stripped the question of its political incrustations and substituted a system essentially, if not entirely, economic. It was, however, true that a potential political control remained in existence, even if dormant, and German payments were both supervised and administered.

[1] *Reparation*, Part VI, p. 314. Altogether only 13 questions involving six decisions were submitted to arbitration. Of these, 10 were submitted to the Tribunal of Interpretation, two being settled out of court and one not being received because no provision for payments on the subject matter existed. Five questions were settled by an award of March 24, 1926, and one each by awards of January 29, 1927, and May 29, 1928. (Reprinted in *American Journal of International Law*, XX, p. 566; XXI, p. 344; XXII, p. 913.) See also *Die Entscheidungen des Internationalen Schiedsgerichts zur Anslegung des Dawes Plan*, Berlin-Grunewald, Rothschild, 1926–29, 4 vols.

An award on the extent of the public law mortgage of the industrial charges law was rendered on December 28, 1925 (*American Journal of International Law*, XX, p. 370). A matter of taxation was decided by an award of June 23, 1926 (Reparation Commission, *Official Documents*, XVIA, p. 100, and *American Journal of International Law*, XXI, p. 326) and a question relating to railroad tariffs on August 24, 1928 (*ibid.*, XIXA, p. 186).

The Dawes annuities were paid promptly, though it was debated whether the standard annuity would not over a period of years prove beyond Germany's capacity. From 1927 on, extensive discussions took place as to whether German payments had not in reality been met by the proceeds of imported capital.[1] The Agent-General in his report of June 7, 1928,[2] stated that "fundamentally, what the Plan has done is to re-establish confidence and to permit Germany's reconstruction as a going concern. In so doing it has marked the turning point in the reconstruction of Europe, and it has also achieved its primary object, by securing from the very beginning the expected reparation payments and transfers to the creditor powers." He continued by calling attention to the fact that the Plan was not an end in itself, and added: "The fundamental problem which remains is the final determination of Germany's reparation liabilities, and . . . it will be in the best interests of the creditor powers and of Germany alike to reach a final settlement by mutual agreement 'as soon', to use the concluding words of the Experts, 'as circumstances make this possible'."[3]

The operation of the Dawes Plan had thus brought it about that conditions were ripe for considering the remaining essential question, namely, the amount Germany was to pay.

During the operation of the Plan, and in the beginning certainly because of its acceptance, the political atmosphere had undergone notable changes. The London Conference on Reparation of July–August, 1924, was itself a great demonstration of improving conditions. Premiers Herriot of France and McDonald of Great Britain, the principal

[1] Department of Commerce, *American Underwriting of German Securities* (Trade Information Bulletin, No. 648). The total given by Germany (1924–29) is 7,062,200,000 Reichsmarks (Reparation Commission, *Official Documents*, XXIIA, p. 38).

[2] Reparation Commission, *Official Documents*, XVIII, p. 108.

[3] In his previous report of December 10, 1927, Mr. Gilbert had first raised the question when he wrote: "As time goes on and practical experience accumulates, it becomes always clearer that neither the reparation problem nor the other problems depending upon it will be finally solved until Germany has been given a definite task to perform on her own responsibility without foreign supervision and without transfer protection."

figures of that conference, attended the Assembly of the League of Nations in the following month and inspired the resolution which resulted in the elaboration of the Geneva protocol, which began a remarkable demonstration in favor of the pacific settlement of international disputes. In February, 1925, Germany made proposals that resulted in the elaboration and conclusion of the Locarno agreements on the following October 16. They came automatically into force in September, 1926, simultaneously with the admission of Germany to the League of Nations and with the cessation of any distinction between the antagonists of the Great War in the councils of the world.

On September 17, 1926, Aristide Briand, foreign minister of France, and Gustav Stresemann, foreign minister of Germany, took lunch in private at the little town of Thoiry outside Geneva. When the bill came there was a friendly rivalry between the two as to which should pay it. M. Briand finally took it with the argument: "You let me have this; you still have reparation to pay." During their cordial discussion, the question of the continued occupation of the Rhineland zones was brought up.

In these zones along the Rhine bank, Belgian, British and French troops were quartered under the terms of a treaty of June 28, 1919, which established an Interallied Rhineland High Commission for the administration of civil matters. American troops participated in the occupation until January, 1923. By the terms of Art. 429 of the treaty of Versailles, which defines the zones, that of the Cologne bridge to the north was to be evacuated in five years under normal circumstances. It was actually evacuated on February 28, 1926, considerably after the stipulated date of January 10, 1925. On January 10, 1930, the central zone of Coblenz was normally due for evacuation, and on January 10, 1935, the Mainz-Kehl zone would be due for evacuation. The continued occupation of German territory proved vexing to German opinion and was widely held in that country to be in contradiction with the friendly co-operation that has consistently increased since the Locarno agreements were made.

The evacuation of the zones, however, is, by the terms of the treaty of Versailles, conditioned upon the settlement of the reparation problem. As a consequence, the examination of the whole political relationship between Germany and the other parties to the treaty of Versailles was involved.

The whole problem was discussed for many months, informally and formally. While the principal statesmen of the countries concerned were in attendance at the ninth Assembly of the League of Nations in September, 1928, they debated this question in its final stages in private conferences at their hotels. On September 16, 1928, they were able to make the following statement for publication: [1]

At the conclusion of the third conversation which has taken place to-day, the representatives of Germany, Belgium, France, Great Britain, Italy and Japan are able to record with satisfaction the friendly conditions in which an exchange of views has taken place regarding the question under consideration. An agreement has been reached between them on the following points:

(1) The opening of official negotiations relating to the request put forward by the German Chancellor regarding the early evacuation of the Rhineland.

(2) The necessity for a complete and definite settlement of the reparation problem and for the constitution for this purpose of a committee of financial experts to be nominated by the six Governments.

(3) The acceptance of the principle of the constitution of a committee of verification and conciliation. The composition, mode of operation, object, and duration of the same committee will form the subject of negotiations between the Governments concerned.

[1] London *Times*, September 17, 1928, p. 14.

II. THE LIQUIDATION OF THE PROBLEM

1. The Committee of Experts, 1929

The Belgian, British, French, German, Italian and Japanese Governments on December 22, 1928, agreed upon the terms of reference [1] for the Committee of Experts which they had decided to establish three months before. The committee was to consist of independent financial experts who were to draw up "proposals for a complete and final settlement of the reparation problem," including "a settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers." The report was to be addressed to the six "inviting Governments" and to the Reparation Commission.

The Belgian, British, French, German, Italian and Japanese Governments designated experts to serve on the committee. The Reparation Commission and the German Government separately "invited" qualified Americans to serve, following an inquiry on behalf of the Governments as to the attitude of the United States Government respecting such service. The attitude of the Washington Government was made known by both the Secretary of State and the President, whose views were given as follows: [2]

> The President has already indicated . . . that the European Governments or the principal nations, including Germany, would like to secure the services of two Americans to join with the experts who are to be appointed by the European Governments, and the United States has reported to the European Governments that this Government has no objection to their taking that course. The President feels, however, that it should be emphasized that it is the European Governments that are making the appointments as well as the selection of the experts.
>
> The President would be more pleased if the European Governments would settle the question of reparations themselves. But

[1] See text of the terms in the Report of the Committee, p. 143.

[2] *United States Daily*, January 12, 1929, p. 2767.

if the European Governments feel that they need the assistance of some American, the President does not think it would be becoming in the United States Government, if persons are willing to serve as experts, that they should not be permitted to do so or rather that this Government would not give its consent to their doing so.

The Committee of Experts, 1929, differed in the nationalities represented in two respects from that of 1924. The Germans were included in the 1929 committee, which had the effect of making the consultation one between debtors and creditors. Japanese experts, who were not included in the 1924 committee, were members of the 1929 committee.

The 1929 committee included five members of the 1924 committee. These were: Owen D. Young, American; Sir Josiah Charles Stamp, British; Jean Parmentier, French; Alberto Pirelli, Italian, and Emile Francqui, Belgian. Two of the German experts, Hjalmar Schacht and C. Melchior, were almost equally familiar with the 1924 work, since Dr. Schacht, as president of the Reichsbank, had taken a prominent part in the organization of the Dawes Plan, and Dr. Melchior for many years had dealt responsibly with reparation problems. Other members of the 1929 experts were exceptionally familiar with the problems involved. Sir Charles S. Addis, British, had participated in organizing the Dawes Plan; Signor Fulvio Suvich had represented Italy's reparation interests; Thomas N. Perkins, American, had been the "delegation of the United States citizen member of the Reparation Commission" and was the chairman of the Tribunal of Interpretation between the Reparation Commission and the German Government; Thomas W. Lamont, American, had been adviser of the American delegation to negotiate peace at Paris in 1919.

The committee met on February 9, 1929, and signed its report on June 7, 1929. Owen D. Young was unanimously chosen chairman and acted in that capacity throughout the 17 weeks of continuous deliberation. He not only presided over the meetings, but shared the work of constructing

solutions of the problems.[1] When the creditor states had developed a scheme of annuities, the chairman consulted with the experts of the creditor countries and with the German experts, and their memoranda as revised, along with a memorandum of the chairman, were placed before the committee. "Finally the chairman prepared a new and independent plan in which these divergent views were brought closer together." Eventually, unanimous agreement was reached. On that record of negotiation is based a popular tendency to name the plan evolved the Young Plan after the chairman of the Committee of Experts. Formally, it is the first part of the New Plan.

Elements of the New Plan

The report of the committee of June 7, 1929, adds two essential elements to the solution of the reparation problem:

(1) It fixes the number and reduces the amount of the annuities to be paid by Germany "on her own untrammeled responsibility;"

(2) It removes the German reparation debt "from the sphere of inter-governmental relations" by making adequate provision for its liquidation in accordance with economic principles and, further, by its partial "commercialization."

The plan incidentally provides for several important developments:

(1) It calls for the establishment of the Bank for International Settlements to "provide additional facilities for the international movement of funds" in connection with reparation payments and otherwise, and "to afford a ready instrument for promoting international financial relations."

(2) It finally removes from Germany all politico-economic controls and assimilates the entire future mechanism of reparation payments to normal financial and economic principles.

[1] Mr. Young delivered a notably clear and frank address on the making of the Young Plan and its significance at the charter day exercises of the University of California, Berkeley, on March 24 (*New York Times*, March 25, 1930, p. 22 and *Congressional Record*, April 11 and 25, 1929).

(3) It abolishes all organs invented specifically for the collection and distribution of reparation, including the Reparation Commission, the Agent-General for Reparation Payments, and foreign commissioners supervising pledges representing security for Germany's liability.

(4) It abolishes the joint liability of Germany for any Austrian, Bulgarian or Hungarian indebtedness.

(5) It contemplates the eventual cessation of deliveries in kind, thus doing away with an artificial form of trade.

(6) It abolishes the "index of prosperity" which under the Dawes Plan would in the future increase or diminish the annuities.

(7) It establishes an equitable agreement between debtor and creditor groups by reduction "in the face value of payments due." In doing this the committee definitely based its decision upon the conviction that the best "basis of security" was "the solemn undertaking of the German Government, to which no further guaranty can add anything whatsoever."[1] On the other hand, the creditors are obtaining "improvements in intrinsic and available values which arise from the practicability and certainty of commercialization and mobilization within a reasonable period and in its attendant financial and economic psychology."[2]

In order to facilitate its work, the committee established no secretariat and kept no minutes. On the other hand, the greatest pains were taken to include in the report an adequate and accurate statement of every conclusion which prevailed with the committee and the reasons for its acceptance. Therefore, the Report of the committee presents cogently both the problems and the conclusions of the committee, in the setting of the facts of the reparation system from which it was bound to proceed. Its contents are analyzed below in connection with the completory and correlative decisions subsequently taken.

[1] Report, par. 101.

[2] *Ibid.*, par. 157.

2. First Conference of Governments

When the experts had made their report on the settlement of the reparation problem, the next move was up to the Governments, which had agreed at Geneva on September 16, 1928, to open negotiations on the questions of (1) the evacuation of the Rhineland, (2) the settlement of the reparation problem and (3) "the constitution of a committee of verification and conciliation." Those Governments — Germany, Belgium, France, Great Britain, Italy and Japan — took the initiative in inviting others concerned[1] to a conference which began at The Hague on August 6, 1929, and adjourned on August 31, to meet again January 3–20, 1930.

It was anticipated that the August meeting might adopt the procedure followed five years previously at London, when the requisite agreements were made and signed and automatically came into force, — by intervening ratification, passage of laws and development of regulations, — on a stipulated future date. Such a program was not realized. The question of a committee of verification and control was determined by an agreement signed on August 30, but was itself dependent upon the realization of the Young Plan. The evacuation of the Rhineland was arranged by exchange of notes and was begun without delay. Additional demands of the British Government occupied most of the time of the conference, resulting in some changes in the Young Plan and creating a situation which prevented the conference from completing its scheduled work. As a consequence, the Experts' Plan of June 7, was only accepted in principle by the protocol of August 31, rather than accepted outright.

The protocol and its annexes, which embody the agreements reached and the adjustments effected, were not made formal documents in August.[2] In fact, the confer-

[1] All Governments affected by the decisions to be taken. Those actually represented at each session are mentioned in the detailed account.

[2] Practically, however, they were executed as though in force, so far as the handling of funds was concerned.

ence as a consequence of the British demands had not been able to organize formally and did not elect a president until its final session, when it chose Henri Jaspar, Prime Minister of Belgium, who had opened the proceedings. This belated action was taken for the purpose of giving the protocol such a final character as was then possible and for providing machinery to continue the task. The protocol of August 31 and the annexes were signed only by the president and the secretary-general of the conference. The president was intrusted with the duty of appointing the committees required to complete the work, and the protocol provided that the conference was to reassemble at a date and place to be fixed by the president. The adjourned session met at The Hague January 3–20, 1930, when it gave authentic character to the reports of the committees and established the treaty character of the protocol of August 31.

The August Conference Meeting

The August 6–31 session of the Hague Conference was attended by the delegates of the German Reich, Belgium, the United Kingdom, Canada, Australia, South Africa, New Zealand, India, France, Greece, Italy, Japan, Poland, Portugal, Rumania, Yugoslavia, Czechoslovakia and of the United States — "in the capacity of observer and with specifically limited powers".[1]

Taking into account that the arrangements arrived at were not only to have a character of permanence but involved the decision of a large number of questions that previously had been relegated to the future, some delay was not surprising. Moreover, speed was in no wise facilitated by the attitude assumed at The Hague by the British delegation and particularly the Chancellor of the Exchequer, Philip Snowden.

Opposition to the Report of the Committee of Experts showed in London immediately after the text of the docu-

[1] Protocol of August 31, 1929, Sec. 1.

ment was available. In response to a query in the House of Commons, Philip Snowden, Chancellor of the Exchequer, stated on July 9 that "the loss entailed to this country by reason of the departure from the Spa percentages in the Young report amounts on average to approximately £2,400,000 [1] a year." Capitalized at 5½%, this was estimated to amount to £37,500,000. On July 26, replying to a speech by the Liberal leader, David Lloyd George, Mr. Snowden stated the British objections, which on analysis amounted to the following:

(1) Mr. Young's proposal as to German annuities when first made "aroused indignation in this country." [2] However, the differences between it and the final proposal "were differences of degree only."

(2) "The Government were willing to agree to the amounts which had been proposed for the German annuities," having "no desire to increase the amount of the claims which Germany might be called upon to pay."

(3) "We were given no appreciable share" of the non-postponable part of the annuities, practically all of which went to France and Italy.

(4) "No explanation and no attempt at justification had been given for revising" the British percentage as fixed at Spa, which for nine years had been agreed to "as governing the distribution of any revised scheme of reparation or annuities." [3]

(5) "We should just get, with the interest (*sic*) from our European debtors, enough to pay the future annual

[1] On July 26 he stated the figure to be £2,415,000, specifying that Italy got £1,840,000 of the British reduction. He continued by saying "the acceptance of the report reduced our share of the annuities by just under £2,500,000 a year." (*Parliamentary Debates*, 5th series, 229, col. 684, and 230, col. 1680.)

[2] In determining whether this indignation was justified or not, it should be observed that the proposal was accepted by the experts nominated by the British Government, who were known to be in close touch with their Government and who had the assistance at Paris of representatives of the British Treasury. It should further be noted that eight days before the signing of the Experts' Report at Paris a general election took place in Great Britain which resulted in an overturn of the Government.

[3] The British Spa percentage was 23.05%; the British percentage of average annuities under the Young Plan is 20.565%; the British percentage of total German annuities for the first 37 years is 19.494%, and the net British receipts for 59 years is 18.575% of the total German payments.

payments of interest (*sic*) to America. There would be no surplus to Great Britain." All other creditors "would have surpluses beyond their outgoings." This "did not give us the conditions we laid down, because there was already about £200,000,000 of difference between what we had paid to America and what we had received from our continental debtors." [1]

(6) As to deliveries in kind, which had a special "seriousness for an exporting country like our own," the Government could not agree, "unless . . . compelled to do so, to accept the proposals in the report."

(7) "They would have something to say in the conference upon the distinction which had been made upon the postponed and the unconditional annuities and the fact that we had no share at all in the unconditional annuities."

The British Demands

The session of the Hague Conference of August 6–31 was one of the most astonishing gatherings in postwar official history. At the outset of the conference, Philip Snowden, the British chancellor of the Exchequer, in a speech notable for lack of courteous form, demanded satisfaction of the British claims. "The objections of the British delegation appeared to come as a surprise to the conference," Mr. Snowden remarked afterward.[2] The essentials of the subsequent proceedings are given in Mr. Snowden's own words:

> At the conclusion of my speech, it was moved that we should adjourn for two days to enable the delegates to recover from the shock. After two days, it was realized that no agreement was likely to be reached by formal debates. We refused to agree to the setting up of formal committees until we had received satisfaction on our three main points. It was agreed to set up a formal

[1] In a written reply to a parliamentary question, the Chancellor of the Exchequer stated that "the excess of the British payments to the United States Government over our aggregate receipts from allied debts and reparation up to March 31, 1929, was £145,925,000."

[2] The account of his national broadcast September 2, London *Times*, September 3, 1929, p. 14.

committee of treasury experts. For three days . . . these experts met, but made little progress. At no stage did . . . the other creditor powers make any offer. After a week of this futility, I addressed a letter to M. Jaspar [the presiding officer]. I said, "The time has come for a definite decision; I expect this within the next two days.". . . Two days later we received from them a letter setting forth their offer . . . so meager as to be wholly unacceptable. This I communicated to M. Jaspar, and from that time onward the meetings became hectic. The meetings of the conference were still suspended. . . . For days things dragged on. Private interviews continued, and occasional meetings of the heads of the principal powers. On Thursday, the 22d, . . . the other four creditor nations . . . decided to make a fresh offer. Toward midnight M. Jaspar called on me . . . [He] was informed that it was quite unacceptable . . . I addressed to M. Jaspar a communication asking that we should have the proposals of the other creditor powers in a final definite form in writing without further delay.

Substantial progress it is true had been made on the political side, the agreement to which was almost complete provided a settlement could be reached on the financial side. The matter of deliveries in kind . . . had also made some progress, though our requirements had not been completely met. On the financial side, however, the position was the same as it had been for two weeks. . . . In these circumstances, the British delegation decided to ask that afternoon for the summoning by the six inviting powers of the plenary conference on the following morning.

This meeting, which marked the turning point in the fortunes of the conference, assembled at 5 o'clock. Each delegation outlined its own point of view at some length. . . . The room was insufferably hot, and it was suggested that we might adjourn for ten minutes to get some fresh air. We split into little groups, and then the bargaining process began. The British delegates remained in one room while the others went into another room. M. Jaspar acted as intermediary. M. Jaspar returned within five minutes to say that his friends would advance only 66%. I at once rejected this. . . . Half an hour later (9.15 P.M.) he returned with another offer which showed some advance, but was still unacceptable. I begged him to continue his efforts and pointed out that . . . at the same rate he would come up to the minimum demands before midnight. He returned in a quarter of an hour with a further advance of £50,000. "You are doing first rate,

M. Jaspar," I said, "be not weary in well doing." In the next two or three hours further small advances were made, and by 11.30 they had come within £240,000 of the British claims. M. Jaspar was in despair. "I can not do more," he said, "you have emptied all our pockets." "Go through your pockets again," I said very kindly, "and I am sure that you can find enough to cover what remains between us." "You told me you had a very kind heart," he said, "and we have never met a man like you." I assured him that it was out of the kindness of my heart that I wished him to continue his efforts as I was sure that he would succeed. Then some one had a brain wave, and the hitherto undiscovered means of giving us the sum we needed was discovered. At midnight our demands were accepted.

The original British demands were an addition of £2,400,000 to its annuities, a larger share of the unconditional annuities, and some substantial improvement in regard to deliveries in kind.

According to the British interpretation of the figures, an increase of £2,000,000 a year in the annuities for 37 years was obtained. A guaranty was given as to £990,000 by the French and Belgian Governments and as to £450,000 by Italy, or £1,440,000 guaranteed from other creditors. A lump sum of £5,000,000 (100,000,000 marks), "equal to an additional annuity of £360,000 a year," was obtained out of the payments due by Germany in the last five months of the fifth Dawes annuity, in which there is a surplus over the Young Plan requirements of 300,000,000 marks. Gains in interest from readjustment of dates at which debt payments are to be made were credited by the British as representing a gain for them of £200,000 a year. Mr. Snowden stated that 90% of these sums "are guaranteed and are therefore placed in the category of unconditional annuities." He added that "this may be regarded as full compensation for the small sacrifice we made in the total of our original demands."[1]

On the second point, the British Empire was assigned

[1] The quotations are from Mr. Snowden's broadcast, as cited, which was in the nature of a report to the people of Great Britain.

55,000,000 gold marks as its share of the unconditional part of the annuities under the Experts' Report.

On the third point, deliveries in kind, Great Britain secured an undertaking by Italy to purchase from Great Britain 1,000,000 tons of coal a year for three years, thus reducing the demand for German coal on reparation account.

3. Elimination of Sanctions

The resolution of September 16, 1928, dealt with two other questions besides reparation, which were referred to the political committee of the conference. The Hague protocol of August 31 states "that on all the political questions on the agenda of the conference an agreement has been come to between the powers interested." In its session of August 29, Arthur Henderson of the British delegation as rapporteur read a unanimous report on those questions. In presenting the report he expressed the hope "that to-day we are taking decisions which will mean that from now henceforward the World War, with its divisions, with its hatreds, and with the clashes of conflicting interests which it left behind will soon be no more than an evil memory. The path is opening before us for the constructive work of building up the common welfare and prosperity of our peoples upon the firm foundation of stable and enduring peace." The report was unanimously adopted, after a notable series of speeches, by the conference.[1]

The political committee of the conference completed the solution of the question raised under par. 3 of the Geneva agreement by an agreement formally signed at The Hague on August 30. The question was that of substituting a means of verifying and conciliating questions which might arise under the new conditions. It should be appreciated that the treaty of peace with Germany was a document which accorded the allied and associated states various abnormal privileges and entitled them to take sanctions. The victors in modifying the system by mutual agreement

[1] Texts in London *Times*, August 30, 1929.

with Germany were unwilling simply to abolish such rights. The question of the "committee of verification and conciliation" consequently resolved itself into a question of method by which the examination of differences as to the execution of German obligations in the Rhineland could be examined under the normal conditions of peace. The Hague conference solved the problem by extending the scope of the Locarno arbitration treaties to all questions concerning the evacuation of the Rhineland territory.[1] It is to be noted that the agreement provides for the use of the Belgo-German and Franco-German conciliation commissions of the Locarno agreements for this purpose, but that the agreement of August 30 itself was signed by the Italian and British representatives as well. No provision is made for the conciliation of questions between those two countries and Germany.

The agreement reads as follows: [2]

The undersigned duly authorized:

Having taken note of the notes annexed hereto[3] which have been exchanged between the Belgian, British and French Governments of the one part and the German Government of the other part with a view to the evacuation of the Rhineland territory occupied by the Belgian, British and French troops,

Note the agreement which has been arrived at on this question,

Note, also, that in order to facilitate in the common interest a friendly and practical settlement of any difficulty which may arise between Belgium and Germany or between France and Germany concerning the observance of Arts. 42 and 43 of the treaty of Versailles, the German, Belgium and French Governments have agreed that the task of settling amicably any such difficulty shall be accomplished by the commissions set up under the arbitration agreements concluded at Locarno on October 16, 1925, by Belgium and by France with Germany. These commissions will act in conformity with the procedure laid down and with the rights accruing under these conventions.

If any such difficulty should arise, it will be submitted either

[1] See *The Locarno Conference*, this Series, IX, No. 1, p. 55, 60.

[2] *International Agreement on the Evacuation of the Rhineland Territory*, p. 2–3 (Miscellaneous No. 7 (1929), Cmd. 3417). Only the English text is here reprinted.

[3] See p. 33.

to the Belgo-German Conciliation Commission or to the Franco-German Conciliation Commission, according to whether the difficulty arises between Belgium and Germany or between France and Germany.

This agreement does not in any way affect the general provisions applicable in such case and in particular is subject to the reservation that the powers of the Council and Assembly of the League of Nations to make investigations under Art. 213 of the treaty of Versailles remain intact. It is also subject to the understanding that each of the powers who signed the treaty concluded at Locarno on October 16, 1925, between Germany, Belgium, France, Great Britain and Italy retains the right to lay any difficulty at any time before the Council of the League of Nations in conformity with Art. 4 of that treaty.

The present agreement and the arrangements relating to the acceptance in principle of the Plan of June 7, 1929, are mutually interdependent.

Done at The Hague, the 30th day of August, 1929.

STRESEMANN. ARTHUR HENDERSON.
PAUL HYMANS. ARISTIDE BRIAND.
DINO GRANDI.

This agreement does not extend obligations. It is in effect a reenactment of the Locarno treaty of mutual guaranty by which the demilitarized zone on both banks of the Rhine is declared inviolable. The agreement, however, points to a more definite use of conciliation commissions than the treaty of guaranty and the arbitration conventions of Locarno, which afford a considerable choice of method for settling disputes. Under the agreement, the commission may be invoked in the first instance.

By Art. 213 of the treaty of Versailles, Germany undertakes to give every facility for any investigation which the Council of the League of Nations may consider necessary as to the status of its military preparations. The agreement preserves intact the rules for this exercise of the right of investigation which have been determined by a series of Council resolutions of September 27, 1924, March 14, 1925, and December 11, 1926. [1]

[1] League of Nations, *Official Journal*, V, p. 1592, 1658; VI, p. 610; VIII, p. 162.

End of Rhineland Occupation

The question of the evacuation of the Rhineland was settled in the course of the Hague Conference as forecast by the agreement of September, 1928. Possession of the occupied zones was taken "as a guaranty for the execution" of the treaty of Versailles. A finding by the Reparation Commission "that Germany refuses to observe the whole or part of her obligations . . . with regard to reparation" was stated by Art. 430 of the treaty as cause for the immediate reoccupation of the zones during or after the initial periods. On the other hand, Germany's compliance "with all the undertakings resulting from" the treaty would call for a withdrawal.

The occupied regions were divided into three zones, consisting of the German territory west of the Rhine and bridgehead areas to the east of a 50-kilometer radius from them. All told, 20,927 square miles of German territory was in occupation at the beginning. By Art. 429 of the treaty of Versailles, the Cologne zone on the north was to be evacuated January 10, 1925. It was actually delayed to begin December 1, 1925, and was completed by February 28, 1926. The second, or Coblenz zone, was due to be evacuated January 10, 1930, and the Mainz-Kehl zone in the south by the same date in 1935.

For many reasons Germany had been anxious since the Locarno Conference in 1925 to have the two remaining zones evacuated without regard to the treaty limitations of time. The admission of the principle in September, 1928, resulted in an exchange of letters on August 29 at The Hague between the Belgian, British and French delegates, representing the occupying states, and the German delegate. Each of the occupying Governments appended to their collective note a note stating the details of the evacuation.

A financial question was involved, since the expenses of the occupation were met by Germany through the reparation system and the circumstances of the occupation had

resulted in a vast number of claims and counter claims under the treaty of June 28, 1919, which provides for the meeting of the expenses of the occupation and establishes the Inter-Allied Rhineland High Commission, which performed the functions of civil government in the occupied zones. The financial arrangement agreed upon consisted of establishing a fund of 60,000,000 Reichsmarks, of which Germany was to contribute outright 30,000,000 [1] and the three occupying states so much of the other 30,000,000 as proved to be necessary. The 50% contribution of the occupying states was to be divided: France 35%, Great Britain 12%, Belgium 3%. An additional amount of 6,000,000 Reichsmarks was also paid by Germany toward the "expenses of the commissions and organizations under the Dawes Plan covered hitherto by the Dawes annuities." [2]

The troops remained at about the same figure since June 15, 1928, when the strengths amounted to:

		Troops.
Second zone, Coblenz	British	6,760
	Belgian	5,553
Third zone, Mainz-Kehl	French	54,751

By the notes, the second zone was evacuated by December 14, 1929, and the third zone by June 30, 1930. The British arranged a skeleton scheme providing for the evacuation within 86 days from "zero hour," which was fixed as September 14. The Belgian evacuation of the second zone was effected between September 16 and November 25. The French removed material from September 16–October 15, and all troops from the second zone between October 16 and November 30. After 1920, French troops were in considerable number in the Saar Basin, where the mines were allocated to France by the treaty and which is governed by a commission appointed by the Council of the League of Nations. The removal of the French troops from the Saar in 1926 resulted in the establishment of a railroad guard of 600 men assigned by

[1] The German payment was made and credited in October, 1929.

[2] Hague Protocol of August 31, 1929, Annex III, Art. II.

Belgium, Great Britain and France from the German occupied zones. In October, the British withdrew their Saar contingent in connection with the evacuation of the second zone.

The third zone was entirely occupied by the French troops. The notes exchanged provided for its evacuation to begin "immediately after the ratification by the German and French parliaments and the entrance into force of the Young Plan." Complete evacuation "in any case will be effected at the latest within a period of eight months, and it shall not extend beyond the end of June, 1930."

The exchange of notes of August 30, 1929, providing for this action closed a chapter of postwar history and reestablished normal nonmilitary relations along the Rhine. The documents, which represent an essential phase of the settlement of the Great War's problems, are as follows: [1]

Joint Note to Dr. Stresemann

Secretariat-General, The Hague,
August 30, 1929.

Your Excellency,

In the course of the proceedings of the Political Commission of the Conference at The Hague the three Occupying Powers have agreed to begin the evacuation of the Rhineland during the month of September on the conditions laid down in the attached notes. The withdrawal of the Belgian and British forces will be completed within three months of the date on which the operation of evacuation begins. The French forces will evacuate the Second Zone within the same period. The evacuation of the Third Zone by the French troops will begin immediately after the Young Plan is ratified by the German and French Parliaments and put into operation. It will proceed without interruption as rapidly as physical conditions permit, and in any case will be completed at the latest in a period of eight months terminating not later than the end of June, 1930.

[1] *International Agreement on the Evacuation of the Rhineland Territory*, p. 4, 16 (Miscellaneous No. 7 (1929), Cmd. 3417). Only the English text is here reprinted.

Belgian, French and British notes attached determined details of the evacuation. The Interallied Rhineland Commission established its headquarters at Wiesbaden pending the evacuation of the third zone. An agreement between the commission and the German commissioner of the Rhineland occupied regions determined the northern boundary of the third zone on September 30, 1929 (*Official Gazette*, X, Nos. VIII–X, p. 6).

In order to enable the Belgian, British and French troops to complete the evacuation within the periods indicated above, it is necessary that the Government of the Reich should take the measures laid down in the annexed notes mentioned above. We should be greatly indebted to Your Excellency if you would let us know if you are in agreement with regard to these measures.

We avail ourselves of this opportunity to renew to Your Excellency the assurance of our highest consideration.

PAUL HYMANS.
ARTHUR HENDERSON.
ARISTIDE BRIAND.

DR. STRESEMANN TO THE MINISTERS OF FOREIGN AFFAIRS OF BELGIUM, GREAT BRITAIN AND FRANCE

(Translation)

GERMAN DELEGATION,
SCHEVENINGEN, August 30, 1929.

Your Excellencies,

I have the honor to acknowledge the receipt of Your Excellencies' note of to-day's date which you have addressed to me in the name of your Governments.

The German Government take note of the declaration made by the Belgian, British and French Governments regarding the evacuation of the Rhineland, in accordance wherewith evacuation will commence during the month of September. The Belgian and British troops will be completely withdrawn within a period of three months dating from the beginning of the evacuation operations. The French troops will evacuate the second zone within the same period. The evacuation of the third zone by the French troops will take place immediately after the ratification of the Young Plan by the German and French Parliaments and the entry into force of the Plan. Evacuation will be effected without interruption, and as speedily as physical conditions permit, at the latest within a period of eight months, which, however, may not extend beyond the end of June, 1930.

At the same time I have the honor to confirm to Your Excellencies the agreement of the German Government to the provisions contained in the three inclosures in your note dealing with certain questions connected with the evacuation.

STRESEMANN.

Agreements effected by letters exchanged on August 4, 1929, between the Conference of Ambassadors and the German ambassador at Paris brought an understanding on the character of railroad construction in the Rhineland [1] prior to the evacuation. The Conference of Ambassadors had long contended that various German railroad structures or undertakings in the territory demilitarized by the Locarno treaty of guaranty were planned on a strategic basis. By the letters exchanged on August 4, it was recorded:

(1) That the new station at Jülich to replace one built in 1870 was to be reconstructed according to plans made in 1928 so as "exclusively to meet the local requirements and traffic;" and

(2) That the Osterthal Railroad "for 12 years at least would have the technical character of a local railroad (*Kleinbahn*)."

The Conference of Ambassadors took note of a series of declarations by the German ambassador in a letter of July 17 respecting the destruction or modification of new construction in the Ahr Valley, largely relating to the length of loading platforms. In taking note of their letter "the interested Governments in no wise renounce eventually making use of the rights accruing to them under Art. 43 of the treaty of peace" with respect to railroad structures "at any point in the demilitarized zone which in their eyes would constitute a violation of the said Art. 43."

4. Final Session of Conference

The interval between the meetings of the Hague conference was devoted to preparation of the Plan for entrance into force. The protocol of August 31 stipulated that the president of the conference should appoint committees whose formation was not otherwise provided for and for his receiving the reports of all committees. The committees at work in the interval numbered seven and were as follows:

[1] *Le Temps*, December 19, 1929, p. 1.

(1) Organization Committee of the Bank for International Settlements, Baden-Baden, October 3–November 13, 1929.

(2) Committee on delivery in kind, Paris, September 16–November 30, 1929.

(3) Committee on ceded properties, liberation debts, and final settlement under the treaties of St. Germain, Trianon, and Neuilly, Paris, September 16–November 30, 1929.

(4) Committee on liquidation of the past, Paris, September 16–November 22, 1929.

(5) Adaptation of the system of controlled revenues to the New Plan, Annex I to the final protocol signed at London, August 16, 1924;[1] report submitted November 19, 1929.

(6) Adaptation of the German law on the Reichsbank of August 30, 1924;[2] report submitted November 12, 1929.

(7) Adaptation of the German law concerning the German Railway Company of August 30, 1924;[3] report submitted November 19, 1929.

It fell to M. Jaspar to summon a Committee of Jurists to draft the reports of the committees into legal texts for embodiment in the final protocol. The Committee of Jurists began work on December 10. Following the completion of its task, the Governments concerned examined its drafts in preparation for sending delegates to the reconvened conference.

[1] Reparation Commission, *Official Documents*, Vol. XIV, p. 131.

The report is printed in *Entwürfe zu den Gesetzen über die Haager Konferenz und die Sonder- und Liquidationsabkommen*, Sechster Teil, p. 2. The assigned revenues must amount to 150% of the highest budgetary contribution, that is, 150% of 1,768,800,000 Reichsmarks, or 2,653,200,000 Reichsmarks. The report is substantially Annex VII of the agreement of January 20, *ibid.*, Erster Teil, p. 154, and *Agreements*, p. 67.

[2] The law and subsidiary legislation were texts prescribed by one of the organization committees under the Dawes Plan. The texts affected are in *ibid.*, p. 167, especially 179.

The report is printed in *Entwürfe zu den Gesetzen*, Sechster Teil, p. 6; it is substantially Annexes V and VA of the agreement of January 20, *ibid.*, Erster Teil, p. 94 and 102, and *Agreements*, p. 40.

[3] *Ibid.*, p. 225, especially 234.

The report is printed in *Entwürfe zu den Gesetzen*, Sechster Teil, p. 32; it is substantially Annexes VI and VIA of the agreement of January 20, *ibid.*, Erster Teil, p. 104, and *Agreements*, p. 45.

German Nationalist Opposition Defeated

The German Nationalist Party expressed opposition to the Young Plan even before it was published. They sought to defeat it by seeking a referendum on a law relating to the so-called war-guilt controversy, the occupation of German territory, and the payment of reparation. A preliminary petition having been properly signed, the Government was constitutionally bound to submit it to voters for the requisite 10% of their signatures. In doing this, the cabinet issued the following communiqué:[1]

The Government of the Reich, in agreement with the immense majority of the German people, knows that improvement in the external situation can not be imposed by a German law. It can only be attained by negotiations with the associates of Germany. The Government will not refuse to give the plebiscite the guaranties accorded by the Constitution, but it will combat any attempt at recourse to inappropriate methods which are only calculated to aggravate internal dissension.

Despite this statement, 4,137,164 persons, or 10.08%, of the electorate signed the petition for the passage of the following bill:[2]

(1) The German Government shall notify all foreign powers immediately and solemnly that the extorted acknowledgment of war guilt in the treaty of Versailles is contrary to historical truth; is based on false premises and is not binding in international law.

(2) The German Government shall use all endeavors to secure the annulment of the war guilt acknowledgment contained in Art. 231 and Art. 429 and 430 of the treaty of Versailles. It shall also undertake to secure the immediate and unconditional evacuation of the occupied German territories, without any remaining control commissions, independently of the acceptance or the rejection of the decisions of the Hague conference.

(3) No further financial burdens or obligations based on the war guilt acknowledgment shall be assumed, inclusive of those

[1] *Le Temps*, October 2, 1929.

[2] *New York Times*, November 13, p. 11.

arising from the recommendations of the Paris reparation experts and the subsequent agreements.

(4) The chancellor and ministers or representatives of the Reich who lend their signatures to agreements contrary to the provisions of par. 3 shall render themselves liable to prosecution for high treason.

(5) This law enters into force at the moment of its proclamation.

The Reichstag rejected the bill overwhelmingly on November 30, the vote being 312 to 82 on the first three sections and 312 to 60 on the fourth. As a consequence of this rejection a plebiscite was held on December 22, in which 50% of the 41,278,897 registered voters would have had to cast ballots to enact the measure as law.[1] Only 5,828,082, or 13.8%, one fourth of the required number, voted at all and only 337,320 of the electorate took the trouble to vote against the proposal.

Another diversion in Germany excited some outside interest and created a change in the German Cabinet. Dr. Hjalmar Schacht,[2] president of the Reichsbank and principal German expert on the Young Committee, on December 5, 1929, published a memorandum [3] addressed to the Government in which he criticized the current financial position. Asserting that he wrote on the basis of his personal responsibility for the success of the Plan as one of its drafters, he called attention to circumstances which he regarded as compromising the possibilities of its success. He sought to show that the allocation of surplus in the transition period, the Belgo-German agreement respecting the so-called Belgian marks, the adjustment of the non-postponable portion of the annuity and other decisions of

[1] The Reichstag Electoral Court decides after a plebiscite whether the question requires the affirmative vote of a majority of electors (in this case 21,055,587) as a modification of the Constitution or a poll of that number only as a rejection of a Reichstag decision.

[2] An address delivered by the President of the Reichsbank at a meeting of the Deutsche Industrie-und Handelstag on Friday, June 28, 1929, entitled *The Paris Conference of the Experts* (Berlin, Druckerei Der Reichsbank) shows the speaker's early reaction to the subject.

[3] Text in *L'Europe Nouvelle*, December 21, 1929, p. 1744.

the Hague protocol of August 31 had involved new charges on Germany at a time when its financial ability was weakest and that the concessions had not been reciprocal. He criticized the German financial ministry's conduct of the budget. He asserted that, though the German experts at Paris proceeded on the assumption that the Reich would put its financial affairs permanently in order and alleviate "the internal situation of German production so as to make possible support" of the heavy charges of the Young Plan, nothing had in fact been done. On the other hand, "the national German economy is not facing a decrease, but an increase of charges." The Government in a communiqué called Dr. Schacht's memorandum inopportune, but it stated that fiscal reform was to receive immediate attention. In the end lassitude respecting budgetary reform was tacitly admitted by the resignation of the finance minister and a responsible subordinate official and the supersession of Herr Hilferding by Paul Moldenhauer as finance minister.

Final Documents of the Conference

The second session of the Hague conference ran from January 3 to January 20, 1930, and resulted in the signing of an extensive series of documents by which the Governments represented formally accept the terms of the settlement originally provided for by the Geneva agreement of September 16, 1928. The signing of the documents completed nearly 12 months of continuous work by the Committee of Experts, 1929, seven organizing committees, a committee of jurists, and two sessions of the conference. Every essential phase of the reparation problem was dealt with: Relations of creditors to the German, Austrian, Bulgarian and Hungarian debtors, adjustment and closing of all outstanding accounts, the relinquishment of political controls and the substitution therefor of economic apparatus, including the establishment of new international economic machinery. The work which remained consisted

of matters of detail and of implementation,[1] the principles for which had been laid down.

The second session of the conference was organized by the inviting Governments, Germany, Belgium, France, Great Britain, Italy and Japan, the group which had taken the initiative in reaching the Geneva agreement of September, 1928. Governments which attended the previous session were Australia, Canada, Czechoslovakia, Greece, India, New Zealand, Poland, Portugal, Rumania, South Africa, Yugoslavia and the United States, as previously, "in the capacity of observer and with specifically limited powers." New attendants were representatives of Austria, Bulgaria and Hungary. Altogether, 21 Governments were represented.[2] All principal delegations included members of ministerial rank in the national cabinets.

The preparation which had been made enabled the second session of the conference to proceed rapidly to acceptable conclusions. Unexpected delays, however, occurred, and the delegates worked under a pressure of other engagements which some of them had to keep. The international calendar was particularly crowded in January. The 58th session of the Council of the League of Nations had been set for January 20, the same date which had been chosen for the opening of the conference of the five dominant naval powers at London. It had been advanced to the 13th, and various delegates at The Hague found it necessary to attend it. The second session at The Hague, therefore, opened with the hope that the work could be completed by January 11 or 12 and at any rate the delegates were determined to finish by January 20. This piling up of events served to keep the delegates in a mood for the rapid dispatch of the business in hand.

The conference was organized into committees on

[1] The transfer of the functions of the existing organizations to the Bank for International Settlements was intrusted to a special committee composed of two members of the Organization Committee for the bank, representatives of the German Government, the Agent General for Reparation Payments and the Reparation Commission and an equitable representation of Belgium, British Empire, France, Italy, Japan and (if desired) the United States.

[2] India, South Africa and the United States did not sign the Final Act nor any other documents.

German reparation and non-German reparation, the Committee of Jurists, already functioning, continuing to serve the conference as a whole. A subcommittee of treasury experts of the six inviting states was also appointed. In the course of the proceedings, the chairmen and members of the organizing committees were present and gave appropriate aid.

The entire settlement covered a tremendous area, ending several dozen controversies which had served to disturb or even embitter relations between some of the parties. The substance of the agreements is indicated in these pages, and the Appendix contains the most essential documents. The far-reaching character of the decisions of the Hague conference may be exhibited by listing the agreements arrived at, which are bound together by the Final Act of the Hague conference of January 20, 1930. Rearranged on that listing they are:

With Germany

1. Letters of August 30, 1929, relating to the evacuation of the Rhineland[1] (exchange of notes and Belgian, French and English inclosures).

2. Agreement as to Locarno commissions of conciliation, The Hague, August 30, 1929.

3. Protocol approved at the plenary session of the Hague conference, August 31, 1929, with financial agreement, agreement regarding deliveries in kind, agreement upon the transition period and agreement upon costs of occupation annexed[2]; the foregoing covered into the Final Act.

4. Agreement of January 20, 1930, on the final acceptance of the Plan of the Committee of Experts of June 7, 1929[3]; with 12 annexes:

[1] Printed *supra*, p. 33, from British Parliamentary Paper, Cmd. 3417, Misc. No. 7, 1929.

[2] Permanent portions printed *infra*, p. 188.

[3] Printed *infra*, p. 192, from *Agreements concluded at the Hague Conference January, 1930*, Parl. Pap., Misc. No. 4 (1930), Cmd. 3484.

I. Exchange of declarations [1];
II. Measures of transition;
III. Debt certificate of the German Reich [2];
IV. Certificate of the Deutsche Reichsbahn-Gesellschaft;
V. Revision of the German bank law;
VI. Amendment of the law and statutes of the Deutsche Reichsbahn-Gesellschaft [3];
VII. Assignment by way of collateral guaranty of revenues of the Reich to meet service on the German external loan, 1924;
VIII. Form of Trust Agreement [4];
IX. Regulations for deliveries in kind;
X. Agreement of Berlin, January 2, 1930, for amending administration of the British Reparation Recovery Act and agreement of The Hague, January 18, 1930, for amending administration of the French Reparation Recovery Act;
XI. Securities for the German external loan, 1924;
XII. Arbitration rules of procedure.

5. Arrangement relating to the concurrent memorandum accompanying the Experts' report, January 20, 1930 [5]; with concurrent memorandum annexed.

6. Convention respecting the Bank for International Settlements; Constituent Charter and Statutes annexed.[6]

7. Arrangement as to the financial mobilization of the German annuities.

8. Transitory provisions.

9. Financial agreement with Belgium, Brussels, July 13, 1929.[7]

10. Agreement on the amnesty evacuation, Coblenz, October 5, 1929.[8]

11. German-American debt agreement.[9]

[1] Printed *supra*, p. 46.

[2] Printed *infra*, p. 232.

[3] See further the exchange of notes in *Agreements*, p. 139.

[4] Printed *infra*, p. 220.

[5] Printed *infra*, p. 239.

[6] Printed *infra*, p. 203.

[7] See p. 135. The reservation of Belgium (Report, par. 51) was, as a result of this agreement, formally retired by exchange of notes of January 16, 1930 (*Agreements*, p. 140).

[8] *Entwürfe zu den Gesetzen*, p. 321.

[9] Printed *infra*, p. 243. An exchange of notes on behalf of the other creditors and Germany of January 20, 1930 (*Agreements*, p. 134) is printed at p. 44.

12. Liquidation agreements [1] on property, rights and interests: with Belgium (Berlin, July 13, 1929, and Brussels, January 16, 1930); with Poland (Warsaw, October 31, 1929); with Great Britain and Northern Ireland [2] (London, December 28, 1929); with France (Paris, December 31, 1929); with Canada (The Hague, January 14, 1930); with Australia (The Hague, January 17, 1930); with New Zealand (The Hague, January 17, 1930); with Italy (The Hague, January 20, 1930).

13. Agreement between the creditor states respecting Germany, January 20, 1930.[3]

With others [4]

Agreement with Austria, January 20, 1930.

Agreement with Bulgaria, January 20, 1930.

Agreement with Hungary, with annexes embodying general agreement relating to the agrarian fund and fund B, etc. (Put in final form by conference at Paris beginning February 5, 1930.)

Agreement with Czechoslovakia, January 20, 1930.

Arrangement between the creditors respecting Austria, Hungary, Bulgaria, and liberation debts, January 20, 1930.

The final act provides that the New Plan enters into force when the Reparation Commission[5] and the president of the German Kriegslastenkommission (War Burden Commission) have determined that:

(*a*) Germany has ratified and has promulgated its laws for reorganization of the German railways and the Reichsbank;

(*b*) The New Plan has been ratified by four of the following five states: Belgium, France, Great Britain, Italy and Japan;

(*c*) The Bank for International Settlements is established,

[1] *Entwürfe zu den Gesetzen*, fünfter Teil.

[2] British Parliamentary Paper, Misc. No. 3 (1930), Cmd. 3486.

[3] *Agreements*, p. 142.

[4] *Agreements*, p. 146–172.

[5] The vote of the Reparation Commission shall be taken in accordance with the treaty of Versailles and shall include the vote of Japan. The joint determination of the Reparation Commission and the Kriegslastenkommission will be notified to the signatory parties.

has accepted the duties assigned to it and received the certificate of indebtedness from the German Government and the certificate from the German railways.[1]

The New Plan is substituted retroactively for the Dawes Plan as from September 1, 1929.

Special Decisions of the Conference

The proceedings at The Hague went off smoothly; the decisions will be better understood when discussed in connection with their subject matter. Nevertheless, a number of points which were discussed should be mentioned.

It was agreed, after a lengthy and complicated consultation of experts from the Young committee membership, on reparation in general and on banking, that German monthly payments should be made on the 15th instead of the 30th, the date having been left blank in the draft trust agreement and then determined in the certificate of indebtedness.

Germany agreed that foreign loans on behalf of the Government or its nationals should not be sought before October, 1930, thus leaving a clear field for the issuance to the public of a first *tranche* of mobilizable bonds.

The German-American agreement initialed on December 28, 1929, accepted Germany's full faith and credit as the only security and guaranty for the obligations involved. At The Hague, Germany circulated the agreement with a view to getting this formula accepted by its other creditors. The result was an exchange of notes between the German foreign minister and the president of the conference in which the former made and the latter acknowledged the following statement:[2]

> The German Government will not exercise in relation to any one of the creditor powers the rights of postponement which it possesses under the agreements already signed or initialed without exercising at the same time any similar rights which it may possess in relation to all the other powers whose claims are included in the annuities, as set out in the Experts' report of June 7,

[1] Trust Agreement, Art. II, *b* and *c*.

[2] *Agreements*, p. 134.

1929. Moreover in the future the German Government will not, in connection with postponement, give any special advantage to any one of those powers.

Nothing contained herein-above shall be construed as impairing in any way Germany's rights and obligations under the agreements already signed or initialed.

The German Nationalist plebiscite and the change of the finance minister in December started a reaction in France among those not inclined to trust Germany any farther than necessity requires. It was argued in the French Chamber and in the press that evacuation of the occupied regions permanently deprived France of its "gage" for payment, while the plebiscite campaign suggested to some the possibility that the German Nationalists might repudiate the whole Plan settlement in case they came to power. It was, therefore, argued that the continued application of Art. 430 of the treaty of Versailles should be recorded. By that article, after expiration of the period of occupation and in case it is found "that Germany refuses to observe the whole or part of her obligations under the present treaty with regard to reparation, the whole or part of the areas specified in Art. 429 will be reoccupied immediately by the allied and associated forces." Outside of certain French circles the conviction prevailed that the raising of the point was gratuitous, since, without anything being said, the treaty provision would slumber without disturbing any one, and its resurrection would not be precluded if the remote possibility of German repudiation of the settlement should occur. But once the question was raised, it was necessary to allay any French distrust which existed and to find a formula which expressed the trust felt by the conference in the German Government's willingness to keep its pledges. [1]

[1] Raising the question was technically justified by the abolition of the Reparation Commission and the supersession of the agreement of August 30, 1924, to amend Part VIII, Annex II, par. 16, of the treaty of Versailles (*Reparation*, Part VI, p. 262). By this amendment a German default under the Dawes Plan could be established by a majority of the Reparation Commission only if confirmed by the Tribunal of Interpretation. Action following such a decision was to be joint, thus preventing such isolated "sanctions" as the Ruhr incident. The abolition of the Reparation Commission by the New Plan thus left a remote possibility of political intervention under improbable circumstances.

The solution of this final "sanction" problem was intelligent. The powers of the creditor states toward Germany under the régime of the New Plan will be determined by it.[1] In separate declarations both sides faced the hypothetical possibilities and prescribed judicial review of them before action. As these notes close the long chapter of irresponsible suspicion in Franco-German relations, they are quoted:

I. The representatives of the Belgian, British, French, Italian and Japanese Governments make the following declaration:

The New Plan rests on the principle that the complete and final settlement of the reparation question is of common interest to all the countries which this question concerns and that the Plan requires the collaboration of all these countries. Without mutual good will and confidence, the object of the Plan would not be attained.

It is in this sense that the creditor Governments have, in the Hague agreement of January, 1930, accepted the solemn undertaking of the German Government to pay the annuities fixed in accordance with the provisions of the New Plan as the guaranty for the fulfilment of the German Government's obligations. The creditor Governments are convinced that, even if the execution of the New Plan should give rise to differences of opinion or difficulties, the procedures provided for by the Plan itself would be sufficient to resolve them.

It is for this reason that the Hague agreement of January, 1930, provides that, under the régime of the New Plan, the powers of the creditor powers shall be determined by the provisions of the Plan.

There remains, however, a hypothesis outside the scope of the agreements signed to-day. The creditor Governments are forced to consider it without thereby wishing to cast doubt on the intentions of the German Government. They regard it as indispensable to take account of the possibility that in the future a German Government, in violation of the solemn obligation contained in the Hague agreement of January, 1930, might commit itself to actions revealing its determination to destroy the New Plan.

It is the duty of the creditor Governments to declare to the

[1] Agreement with Germany, Art. IV. The notes are Annex I to that document and as reprinted below are from *Agreements*, p. 28.

German Government that, if such a case arose, imperilling the foundations of their common work, a new situation would be created in regard to which the creditor Governments must, from the outset, formulate all the reservations to which they are rightfully entitled. However, even on this extreme hypothesis, the creditor Governments, in the interests of general peace, are prepared, before taking any action, to appeal to an international jurisdiction of incontestable authority to establish and appreciate the facts. The creditor power or powers which might regard themselves as concerned would, therefore, submit to the Permanent Court of International Justice the question whether the German Government had committed acts revealing its determination to destroy the New Plan.

Germany should forthwith declare that, in the event of an affirmative decision by the Court, she acknowledges that it is legitimate that, in order to insure the fulfilment of the obligations of the debtor power resulting from the New Plan, the creditor power or powers should resume their full liberty of action.

The creditor Governments are convinced that such a hypothetical situation will never in fact arise and they feel assured that the German Government shares this conviction. But they consider that they are bound in loyalty and by their duty to their respective countries to make the above declaration in case this hypothetical situation should arise.

II. The representatives of the German Government, on their side, make the following declaration:

The German Government takes note of the above declaration of the creditor Governments, whereby, even if the execution of the New Plan should give rise to differences of opinion or difficulties in regard to the fulfilment of the New Plan, the procedures provided for in the Plan would be sufficient to resolve them. The German Government takes note, accordingly, that under the régime of the New Plan the powers of the creditor powers will be determined in accordance with the provisions of the Plan.

As regards the second part of the declaration and the hypothesis formulated in this declaration, the German Government regrets that such an eventuality, which for its own part it regards as impossible, should be contemplated. Nevertheless, if one or more of the creditor powers refer to the Permanent Court of International Justice the question whether acts originating with the German Government reveal its determination to destroy the New Plan, the German Government, in agreement with the creditor Gov-

ernments, accepts the proposal that the Permanent Court should decide the question, and declares that it acknowledges that it is legitimate, in the event of an affirmative decision by the Court, that, in order to insure the fulfilment of the financial obligations of the debtor power resulting from the New Plan, the creditor power or powers should resume their full liberty of action.

The French, German and English texts of the present Annex shall be equally authoritative.

CURTIUS.	HENRI CHÉRON.
WIRTH.	LOUCHEUR.
SCHMIDT.	A. MOSCONI.
MOLDENHAUER.	A. PIRELLI.
HENRI JASPAR.	SUVICH.
PAUL HYMANS.	ADATCI.
E. FRANCQUI.	K. HIROTA.
PHILIP SNOWDEN.	

Dr. Hjalmar Schacht, president of the Reichsbank, and its vice-president, Herr F. Dreyse, created a temporary difficulty. In a letter dated December 31 read to the meeting of the Organization Committee of the Bank at The Hague on January 13, they stated that the Reichsbank's participation in constituting the Bank for International Settlements must be subordinated to certain conditions. They wanted to be sure that Germany would be treated "on a footing of moral equality" at The Hague, especially respecting sequestrated property in England[1] and the elimination of "political sanctions." They wished to await the final decisions of the conference and approval by the Reichstag before engaging the Reichsbank to subscribe capital. The statement was referred to the delegations. By the Reichsbank law in force, the president is not removable until 1932,[2] a provision inserted to insure his independence of the Government of the Reich in connection with the Dawes Plan. The delegations representing the Governments responsible for that provision indicated to

[1] See text of agreement of December 28, 1929, British Parliamentary Papers, Cmd. 3486.

[2] Reichsbank law, § 6, Reparation Commission, *Official Documents*, XIV, p. 181.

their German colleagues their willingness to have it altered. The German delegation summoned the presidents of other suitable banks to take up with them their participation in the capital of the Bank for International Settlements. Meanwhile, the German Government had decided to revise the law so as to place Dr. Schacht under the control of the Government. A communiqué issued by the German Government on January 14 read: [1]

In tomorrow's session of the conference, the German delegation will take the necessary steps to guarantee by legal measures the participation of the Reichsbank in the international bank and the assistance of the Reichsbank in the work of the international bank. We learn that the president of the Reichsbank, in a talk with Finance Minister Moldenhauer, declared that it went without saying that in that case he would not try to avoid the resulting obligations. Thus, the participation of the Reichsbank is assured. In a later conference between the president of the Reichsbank and the four German delegates, complete agreement was reached on this point.

[1] Press of January 15.

III. ESTABLISHMENT OF ANNUITIES

The Committee of Experts, in their effort to reach a definite decision on the German debt began work from the basis of the standard annuity of the Dawes Plan of 2,500,000,000 Reichsmarks (any change to be determined by the index of prosperity not being yet in effect).

Before the committee met at all, discussion of reparation was usually premised on the assumption that the standard Dawes annuity would be scaled down at a new attempt to put the question on a final basis. Several features of the set-up pointed to possibilities for reducing that annuity. The cost of maintaining troops in the Rhineland occupied zones was a temporary charge. The expense of the allied reparation machinery — the Reparation Commission, the organization of the Agent-General, etc., — was not necessarily fixed. The German external loan of 1924, which will be liquidated by sinking fund in 1949, could be serviced independently. In the fifth annuity year ending August 31, 1929, under the Dawes Plan, army costs, commission expenses and loan service amounted to 311,000,000 gold marks. The net reparation payment was, therefore, somewhere around 2,200,000,000 Reichsmarks.

As no extended minutes of the committee were kept or published, the course of the proceedings can be ascertained only from the final published report, which does not undertake to give details in regard to the course of the proceedings. Fragmentary reports appeared in the public press from time to time, but they did not purport to be exhaustive and are consequently not reliable sources of information. Therefore, it is not attempted to give a detailed account of the proceedings of the committee, or the reasons which influenced it in reaching its decisions. Only the definite conclusions are available, but the Report of the Committee in Part V gives a clear summary of the "course of the proceedings." [1]

[1] See p. 148.

It seems to be an accurate statement, however, that the first two months of the proceedings of the committee were devoted largely to hearing explanations of the situation that existed in Germany and the preparation of a plan for the Bank for International Settlements.[1] Beginning in April, various proposals of definite figures were put forward. One by the Germans (which has never been published in full) was rejected by the creditor states, partly because the figures were deemed inadequate and partly because the creditors claimed that it contained political conditions beyond the scope of the committee's authority, although this was denied by the Germans. After other proposals had been made by the creditor states, which were not acceptable to the Germans, the chairman of the committee undertook, with the assent of all concerned, to do what he could toward reconciling the different proposals. His proposals resulted eventually in the adoption of the schedule of annuities appearing in the report, which was accepted by all parties.

The proposals were worked out on the basis of German payments over a period of 59 years, which about corresponds to the remaining period of the payments under the inter-governmental debt agreements refunding debts owed to the American and British Governments. They divided this period into two parts, the first running for 36 years and seven months — the time required to amortize a capital sum bearing 5% interest by means of a 1% sinking fund — and an additional period of 22 years, in which they made no claim for reparation payments, but only for such sums from Germany as were required to meet their own debt agreements. The schedule of annuities is as follows:

[1] For a detailed and authentic account of the proceedings read Thomas W. Lamont, "The Final Reparations Settlement," *Foreign Affairs*, VIII, p. 343–348.

Schedule of Annuities

			Reichsmarks	
	1 7 months	Sept. 1, 1929–March 31, 1930	742,800,000	Constant annuity, 37 years, 1,988,800,000[1]; Dawes loan service to be added.
36 German fiscal years	2 . .	April 1, 1930–March 31, 1931	1,707,900,000	
	3 . .	April 1, 1931–March 31, 1932	1,685,000,000	
	4 . .	April 1, 1932–March 31, 1933	1,738,200,000	
	5 . .	April 1, 1933–March 31, 1934	1,804,300,000	
	6 . .	April 1, 1934–March 31, 1935	1,866,900,000	
	7 . .	April 1, 1935–March 31, 1936	1,892,900,000	
	8 . .	April 1, 1936–March 31, 1937	1,939,700,000	
	9 . .	April 1, 1937–March 31, 1938	1,977,000,000	
	10 . .	April 1, 1938–March 31, 1939	1,995,300,000	
	11 . .	April 1, 1939–March 31, 1940	2,042,800,000	
	12 . .	April 1, 1940–March 31, 1941	2,155,500,000	
	13 . .	April 1, 1941–March 31, 1942	2,180,700,000	
	14 . .	April 1, 1942–March 31, 1943	2,198,000,000	
	15 . .	April 1, 1943–March 31, 1944	2,194,300,000	
	16 . .	April 1, 1944–March 31, 1945	2,207,500,000	
	17 . .	April 1, 1945–March 31, 1946	2,203,800,000	
	18 . .	April 1, 1946–March 31, 1947	2,199,500,000	
	19 . .	April 1, 1947–March 31, 1948	2,215,200,000	
	20 . .	April 1, 1948–March 31, 1949	2,210,000,000	
	21 . .	April 1, 1949–March 31, 1950	2,316,800,000	
	22 . .	April 1, 1950–March 31, 1951	2,359,200,000	
	23 . .	April 1, 1951–March 31, 1952	2,343,200,000	
	24 . .	April 1, 1952–March 31, 1953	2,346,200,000	
	25 . .	April 1, 1953–March 31, 1954	2,353,300,000	
	26 . .	April 1, 1954–March 31, 1955	2,364,600,000	
	27 . .	April 1, 1955–March 31, 1956	2,359,800,000	
	28 . .	April 1, 1956–March 31, 1957	2,354,200,000	
	29 . .	April 1, 1957–March 31, 1958	2,361,800,000	
	30 . .	April 1, 1958–March 31, 1959	2,393,800,000	
	31 . .	April 1, 1959–March 31, 1960	2,370,600,000	
	32 . .	April 1, 1960–March 31, 1961	2,380,500,000	
	33 . .	April 1, 1961–March 31, 1962	2,398,300,000	
	34 . .	April 1, 1962–March 31, 1963	2,390,200,000	
	35 . .	April 1, 1963–March 31, 1964	2,402,600,000	
	36 . .	April 1, 1964–March 31, 1965	2,402,100,000	
	37 . .	April 1, 1965–March 31, 1966	2,428,800,000	

[1] Includes the payments to the United States; less those payments it is 1,922,700,000 Reichsmarks for 37 years and 1,887,300,000 for 59 years (*Entwürfe zu den Gesetzen*, p. 331).

Payments Subject to Special Provisions

			Reichsmarks
22 German fiscal years	38	April 1, 1966–March 31, 1967	1,607,700,000
	39	April 1, 1967–March 31, 1968	1,606,900,000
	40	April 1, 1968–March 31, 1969	1,616,700,000
	41	April 1, 1969–March 31, 1970	1,630,000,000
	42	April 1, 1970–March 31, 1971	1,643,700,000
	43	April 1, 1971–March 31, 1972	1,653,900,000
	44	April 1, 1972–March 31, 1973	1,662,300,000
	45	April 1, 1973–March 31, 1974	1,665,700,000
	46	April 1, 1974–March 31, 1975	1,668,400,000
	47	April 1, 1975–March 31, 1976	1,675,000,000
	48	April 1, 1976–March 31, 1977	1,678,700,000
	49	April 1, 1977–March 31, 1978	1,685,400,000
	50	April 1, 1978–March 31, 1979	1,695,500,000
	51	April 1, 1979–March 31, 1980	1,700,400,000
	52	April 1, 1980–March 31, 1981	1,711,300,000
	53	April 1, 1981–March 31, 1982	1,687,600,000
	54	April 1, 1982–March 31, 1983	1,691,800,000
	55	April 1, 1983–March 31, 1984	1,703,300,000
	56	April 1, 1984–March 31, 1985	1,683,500,000
	57	April 1, 1985–March 31, 1986	925,100,000
	58	April 1, 1986–March 31, 1987	931,400,000
	59	April 1, 1987–March 31, 1988	897,800,000

Features of the Annuities

Some of the more important features of this plan as distinguished from the Dawes Plan are as follows:

First: The standard Dawes annuities are materially reduced and this is especially true over the period of the first ten years, thereby affording Germany an opportunity to consolidate its economic and financial position.

Second: The index of prosperity is abolished.

Third: The industrial debentures and the railway bonds are extinguished, though a tax upon the railways substantially equivalent to the amounts to be received from the railway bonds is substituted therefor.

Fourth: The Reparation Commission and all its agencies including the office of the Agent General are abolished.

The annuities are frequently referred to as having certain

present values. In Paris a present value of 32,885,000,000 Reichsmarks was cited in the press and debates in the French Chamber. In the Annual Report of the Secretary of the Treasury of the United States a present value of 31,172,000,000 Reichsmarks is given,[1] and other sums have likewise been cited. Present value is determined by the mathematical solution of a formula in which the interest rate and the frequency of payments are important factors. The higher the interest rate to be compounded the lower the present value becomes. Present values have been figured by Governments in connection with the Young Plan on a 5½% interest basis. Differences in amounts given are usually due to varied assumptions as to frequency of payment. Annual, semiannual or monthly payments will give different present values. For instance, at the second session of the Hague conference it was brought out that payment of monthly quotas on the 15th instead of the 30th of each month would add 5,000,000 Reichsmarks annually to the receipts of the creditors.

Since present value is only properly employed for providing a basis of comparison between a continuing payment or receipt and a current asset or potential asset, the German computation of present value ought to be of interest. The total payments for 37 years, less the Dawes loan service, is given in the German Reichstag report [2] as 30,950,000,000 Reichsmarks ($7,357,100,000) at 5½% and at 33,750,000,000 Reichsmarks ($8,032,500,000) for 59 years.

The recommendations of the Committee of Experts provide that of each annuity 660,000,000 Reichsmarks (increased by 13,800,000 Reichsmarks by the Hague protocol) be made over unconditionally, that is, "payable without any right of postponement in foreign currencies by equal monthly instalments." This amount includes the service of the German external loan 1924, which is not comprised in the average annuity. This part of the annuity gives the creditors a nonpostponable certainty and

[1] *Annual Report of the Treasurer of the United States for the Fiscal Year ended June 30, 1929*, p. 53.

[2] *Entwürfe zu den Gesetzen*, p. 331.

provides a foundation for servicing reparation bonds when commercialized and marketed.

The totals of the first 37 annuities (but not their annual averages) include the service of the German 7% 25-year external loan of 1924, which is due for extinction October 15, 1949. This service, which amounted to 89,315,000 Reichsmarks in the fifth Dawes year, is averaged for the 37 annuity years of the New Plan at 61,800,000 Reichsmarks.[1] It should be noted that the security originally pledged by Germany for the service of the loan remains unaffected in any way by the adoption of the New Plan.[2]

The annuities are graduated upward from year to year from 1931–32, and in 1948–49 amount to 2,210,000,000 Reichsmarks. In the year 1949–50 — the first in which the service of the loan is not required — the annuity rises to 2,316,800,000, and thence forward for 16 years slight annual additions are made. The annuities are graduated through 36 German fiscal years from a first amount of 1,707,900,000 Reichsmarks to a final annuity of 2,428,–800,000 in the fiscal year ending March 31, 1966, averaging 1,988,800,000 Reichsmarks, exclusive of Dawes loan service. Thereafter to the year ending March 31, 1988, the payments match the "out-payments" which the creditors are due to make under agreements refunding inter-governmental indebtedness at present in force with respect to them. These 22 annuities show a sharp decline in amount as compared with the preceding 37. For the year 1965–66, the last of the first period, the annuity is 2,428,800,000; the annuity for 1966–67, the first year of the "out-payments" period, is 1,607,700,000, a decrease

[1] Some misunderstanding has occurred because of references to the loan service on an average cost basis for the period of 37 years. The loan is a 25-year loan, liquidating by annual amortization payments with consequent interest charge reductions. The actual cost of the payments for the remaining 20 years of the loan's life were adjusted to the 37 years of the Young Plan for the purposes of comparative computations, 61,800,000 Reichsmarks being the average annuity. This average is a factor in the amount of the nonpostponable part of the Young annuity, which otherwise amounts to 612,000,000 Reichsmarks. In 1929–30 the actual cost of Dawes loan service is some 88,500,000 Reichsmarks, so that the amount of the nonpostponable annuity in that year is about 700,000,000 Reichsmarks. On the other hand, in 1949–50 and thereafter the nonpostponable part of the annuity will not include any factor for service of this loan.

[2] For the guaranties of the loan see the Trust Agreement, Arts. II(d), IV(a) and XI(a) 1.

of 821,100,000. From 1966–67 to 1987–88, this group of annuities rises to 1,711,300,000 in 1980–81, falls to 1,683,-500,000 in 1984–85, and for the last three years falls very rapidly to only 897,800,000 in 1988.

Amount and Distribution of Annuities

The annuities as fixed by the Committee of Experts go for two main purposes, reparation and the "out-payments," which are dealt with in detail subsequently. During the period from September 1, 1929, to March 31, 1966, when both reparation and "out-payments" are to be made, Germany is due to turn over a total of 79,485,100,000 Reichsmarks;[1] until March 31, 1988, for the "out-payments" alone, plus the American claims, an additional 34,422,600,000 Reichsmarks is to be paid, making a total transfer in the 59 years of 113,907,700,000 Reichsmarks.

It will be interesting to summarize the entire payments to be made by the German Government from the beginning to the end of reparation. The following summary is derived from official Reparation Commission figures, the reports of the Agent-General, and the annuity schedules of the Committee of Experts, 1929:

	Reichsmarks
Value of ceded property	2,553,905,000
Years 1920 and 1921	3,970,835,000
Year 1922	1,402,686,000
Ruhr period, January 11, 1923–August 31, 1924	894,231,000
First annuity, September 1, 1924–August 31, 1925	1,000,255,000
Second annuity, September 1, 1925–August 31, 1926	1,223,157,000
Third annuity, September 1, 1926–August 31, 1927	1,502,283,000
Fourth annuity, September 1, 1927–August 31, 1928	1,755,097,000
Fifth annuity, September 1, 1928–August 31, 1929	2,508,057,000
September 1, 1929–March 31, 1966	79,485,100,000
April 1, 1966–March 31, 1988	34,422,600,000
	130,718,206,000
	($31,123,382,000)

The annuity for the first 37 years under the New Plan may be divided as follows:

[1] The total of the quotas in Annex VII. The annuities add up to 2.4 millions less due to simpler "rounding off."

Year	Reparation	Out-Payments	Total
1	742.8	–[1]	742.8
2	742.8	965.1	1,707.9
3	742.7	942.3	1,685.0
4	742.8	995.4	1,738.2
5	667.9	1,136.4	1,804.3
6	667.9	1,199.0	1,866.9
7	668.0	1,224.9	1,892.9
8	667.9	1,271.8	1,939.7
9	643.0	1,334.0	1,977.0
10	642.8	1,352.5	1,995.3
11	667.8	1,375.0	2,042.8
12	667.9	1,487.6	2,155.5
13	742.8	1,437.9	2,180.7
14	742.9	1,455.1	2,198.0
15	742.8	1,451.5	2,194.3
16	742.8	1,464.7	2,207.5
17	742.9	1,460.9	2,203.8
18	742.6	1,456.9	2,199.5
19	742.9	1,472.3	2,215.2
20	742.9	1,467.1	2,210.0
21	855.3	1,461.5	2,316.8
22	855.3	1,503.9	2,359.2
23	855.3	1,487.9	2,343.2
24	855.1	1,491.1	2,346.2
25	855.2	1,498.1	2,353.3
26	855.2	1,509.4	2,364.6
27	855.3	1,504.5	2,359.8
28	855.1	1,499.1	2,354.2
29	855.1	1,506.7	2,361.8
30	855.2	1,538.6	2,393.8
31	855.2	1,515.4	2,370.6
32	855.1	1,525.4	2,380.5
33	855.1	1,543.2	2,398.3
34	855.2	1,535.0	2,390.2
35	855.2	1,547.4	2,402.6
36	855.3	1,546.8	2,402.1
37	855.1	1,573.7	2,428.8
	28,745.2	50,738.1	79,483.3

[1] Out-payments of 863,100,000 Reichsmarks for the year ending March 31, 1930, not included in the tabulation (see Plan, Part 8, pars. 83, 84, 93).

The annuities for the remaining 22 years are for "out-payments" only, except for 612,000,000 Reichsmarks payable to the United States. Arranged on the basis of the preceding table those payments are:

Year	Fiscal Year	Reparation	Out-Payments	Total
38 . . .	1966–67	–	1,607.7	1,607.7
39 . . .	1967–68	–	1,606.9	1,606.9
40 . . .	1968–69	–	1,616.7	1,616.7
41 . . .	1969–70	–	1,630.0	1,630.0
42 . . .	1970–71	–	1,643.7	1,643.7
43 . . .	1971–72	–	1,653.9	1,653.9
44 . . .	1972–73	–	1,662.3	1,662.3
45 . . .	1973–74	–	1,665.7	1,665.7
46 . . .	1974–75	–	1,668.4	1,668.4
47 . . .	1975–76	–	1,675.0	1,675.0
48 . . .	1976–77	–	1,678.7	1,678.7
49 . . .	1977–78	–	1,685.4	1,685.4
50 . . .	1978–79	–	1,695.5	1,695.5
51 . . .	1979–80	–	1,700.4	1,700.4
52 . . .	1980–81	–	1,711.3	1,711.3
53 . . .	1981–82	–	1,687.6	1,687.6
54 . . .	1982–83	–	1,691.8	1,691.8
55 . . .	1983–84	–	1,703.3	1,703.3
56 . . .	1984–85	–	1,683.5	1,683.5
57 . . .	1985–86	–	925.1	925.1
58 . . .	1986–87	–	931.4	931.4
59 . . .	1987–88	–	897.8	897.8
			34,422.6	34,422.6

If we turn to the creditors, we find that the receipts due to each country amount to totals as follows:

(Millions of Reichsmarks)

	Receipts, 1929–66	Receipts, 1966–68	Total
France	42,233.8	17,279.2	59,513.0
British Empire	15,495.5	5,662.4	21,157.9
Italy	9,060.5	7,888.3	16,948.8
Belgium	4,553.1	1,165.6	5,718.7
Rumania	906.1	923.4	1,829.5
Yugoslavia	3,345.0	497.9	3,842.9
Greece	284.7	213.4	498.1
Portugal	518.3	180.4	698.7
Japan	511.0	–	511.0
Poland	19.4	–	19.4
United States	2,557.7	612.0	3,169.7
	79,485.1	34,422.6	113,907.7

The "out-payments" in the first 37 years, 50,738,100,000 Reichsmarks, and in the succeeding 22 years, 33,810,600,000 Reichsmarks, together amount to 84,548,700,000 Reichsmarks ($20,112,590,000), or 74.2% of the entire payments due from Germany. If we further add all the American receipts to the "out-payments," we find that a total of 87,718,400,000 Reichsmarks, or 77%, of the total German payments is devoted to "out-payments" and American claims and only 23% to reparation. In the first 37 years the strictly reparation payments represent 32.9% of the total.

Adjustments between Annuity Years

In one aspect the Young Report presented a solution simpler than the reality. Omitting the service cost of the German loan, the difference between the average annuities in the first 37 years and the total which Germany is called upon to pay in that period is about 3,700,000,000 Reichsmarks. The apparent discrepancy is accounted for by a careful examination of the distribution of the annuities

by countries,[1] where it will be perceived that the annual payments to each country do not correspond with the average, which was regarded as the standard. Special claims under the reparation system, out-payment requirements and other considerations call for adjustments. All such conditions had to be further adjusted to estimates of Germany's annual ability. Germany's average payments, if maintained in the first nine years, would amount to 17,899,200,000 Reichsmarks; as a matter of fact they amount to 15,354,700,000. The deficit of 2,544,500,000 from the average was carried forward to subsequent years for payment on a present value basis. The annual deficiencies in the nine years are:

1929–30	1,246.0
1930–31	280.9
1931–32	303.8
1932–33	250.6
1933–34	184.5
1934–35	121.9
1935–36	95.9
1936–37	49.1
1937–38	11.8

This amount is deferred with respect to the creditors as follows:

France	1,561.2
British Empire	489.6
Italy	386.0
Belgium	118.1
Rumania	43.1
Serbia	112.7
Greece	3.8
Portugal	11.2
Japan	11.4
Poland	.8
United States	26.8

Owing to the exigencies of the various states, however, these deficiencies vary considerably as to the individual

[1] See p. 179.

years. The British Empire and Greece permanently go above the assigned average after four years, the United States after eight years,[1] France after nine, Belgium after 10, Italy and the other creditors after 12. It can be seen from these facts that there was a double present value adjustment. Amounts had to be thrown forward to meet both the German capacity to pay and to meet the requirements of the creditors. The highly technical details of this double procedure are available to the Bank for International Settlements for the accurate management of the annuities. The adjusted payments are shown year by year in the amounts due to each creditor under the annuity table.[2]

Adjustments for Transitional Period

Determination of the date from which the New Plan was to run resulted in an interesting and simplifying compromise. When the Dawes Plan was prepared, there was much uncertainty as to when it could be put into effect. The proceedings of the year 1924 made it possible, by a very complicated series of documents, to bring it into operation on September 1 of that year. When the Agent-General for Reparation Payments began his duties, he found that that fiscal year was awkward with respect to the German fiscal year, which runs from April 1 to March 31. As a consequence, each of the Dawes annuities came from the budgets of two German fiscal years. Some complication of accounts resulted. It also happened that the parts of the Dawes annuities earmarked for commercialization — the railway bonds and the industrial debenture bonds — were issued on a 5% yield and 1% amortization basis, which would retire them in 36.72 years. The fraction is substantially seven months, and the discrepancy between the Dawes annuity year and the

[1] The deferments of the United States draw interest at $3\frac{3}{8}\%$ until paid (*Annual Report of the Secretary of the Treasury*, 1929, p. 55) as to armies of occupation, which may indicate the rate in other cases. The American claims quotas will bear 5% interest if deferred.

[2] See p. 179.

German fiscal year — September to April — is seven months. For the sake of simplification, as a concession to the Germans and also to bring the Dawes Plan to an end and the New Plan into operation at the earliest possible moment, it was decided that the New Plan should be substituted for the Dawes Plan on September 1, 1929. By this arrangement, the one plan succeeded the other without delay, and the entire reparation scheme was made to synchronize with the fiscal year of the debtor Government.

The two plans, however, overlap. During the five months April–August, 1929, the Dawes Plan schedule was in effect. The German fiscal year April 1, 1929, to March 31, 1930, thus included payments under both plans. The Committee of Experts provided for the allocation of 1,605,900,000 Reichsmarks in that fiscal year. The schedule in Par. 86 of the Report shows the seven-month payment for reparation alone amounting to 742,800,000 Reichsmarks. The allocation of the year's receipts is dealt with in Part 8, par. 4 (par. 83), of the report which provides "that the payments made under the Dawes Plan from April 1–September 1, 1929, after allowing for the external loan, should be treated as payments necessary to cover the requirements of the creditor nations during this transition period, including out-payments for the year ending March 31, 1930." A subsequent schedule (par. 93) shows indicated "out-payments" in that German fiscal year amounting to 863,100,000 Reichsmarks.

Some transitional adjustment of these items was effected by the protocol of August 31, 1929. The creditors by Annex III, Art. I, of the protocol agreed to apply the Young Plan to their receipts from September 1, 1929. During the period, October–December, 1929, the Agent-General for Reparation Payments and the German Government cooperate in "maintaining the rights" of the creditors. These arrangements were continued for the intervening months.

The Young Plan suggested that the receipts of the first

five months of the fifth Dawes year should be treated under the distribution scheme of the New Plan. A surplus resulting from such treatment was left for settlement and adjustment between the Governments, after the service of the Dawes loan and the requirements of the creditors, "including out-payments for the year ending March 31, 1930," were met. The accounts of the Agent-General on August 31, 1929, showed a cash balance of 237,058,972 Reichsmarks with 24,166,667 Reichsmarks still due on the transport tax and 55,000,000 Reichsmarks for railway bond service in September. The surplus to be adjusted therefore amounted to some 316,225,639 Reichsmarks, plus interest accrued at distribution.

Of this sum, 23.05% would have gone to the British Empire automatically under the Spa percentages. As a result of the Hague conference in August, 100,000,000[1] Reichsmarks, or about 31.7%, was awarded to Great Britain, "together with her receipts under the Dawes Plan, to cover in full her net debt outgoings [366,600,000 Reichsmarks] during the year ending March 31, 1930," and current costs of occupation. Part of the same adjustment was that Italy and Greece received the stipulated out-payment sums, 107,800,000 and 5,300,000 Reichsmarks respectively, for the year ending March 31, 1930, while Germany, Great Britain, Italy and Japan forewent any claim to the remaining surplus.

The Young Plan indicated that the out-payments applicable to the year ending March 31, 1930, amount to 863,100,000 Reichsmarks. Allocation by the Hague protocol of British, Italian and Greek quotas left 383,400,000 Reichsmarks of the total. Rumanian, Yugoslav and Portuguese requirements amount to 21,900,000 Reichsmarks, leaving France with 338,100,000 Reichsmarks and Belgium with 23,400,000 Reichsmarks, or 361,500,000 Reichsmarks as compared with the surplus of 216,225,639 Reichsmarks remaining in the April–August accounts of

[1] Raised to 102,000,000 by arrangement between the creditors of January 20, and charged to excess receipts of states other than Great Britain (see note to Report, Annexes, par. 192, *infra*, p. 186).

the Dawes Plan after the assignment of 100,000,000 to the British Empire. In return for the assignment to them of the remaining surplus, "the Belgian and French Governments guarantee without reserve the payment to Great Britain" of additional annuities of 19,800,000 Reichsmarks for 37 years, representing the income of 396,000,000 Reichsmarks capital at 5%.

The British demand at the Hague conference for additional receipts resulted in a further adjustment which was met by Italy. The Italian Government "guarantees to Great Britain without reserve a further annuity of 9,000,000 Reichsmarks for 37 years" (180,000,000 Reichsmarks capital at 5%). This guaranty is arranged by applying "in favor of Great Britain a part of the claims to which Italy is entitled under the agreements of September 10, 1919, and December 8, 1919." The agreements referred to[1] were between the states engaged in the war against the Austro-Hungarian monarchy. Italy as a state acquiring territory formerly a part of that monarchy "agrees on account of such acquisition to be debited against her approved claims for reparation under the treaties of peace" an amount proportionate to the debit of the other succession states. Poland, Rumania, Yugoslavia and Czechoslovakia were to pay an aggregate of 1,500,000,000 gold francs[2] toward the expenses of liberating the territories transferred to them by Austria and Hungary. Italy's debit was a ratio of that sum corresponding to the ratio between the average revenues of the acquired territories for the years 1911–13 and the average revenues of the territories acquired by those other states in the same years.

Special United States Position

The United States Government for various reasons found itself in 1929 in a special position. By the German-American treaty of August 25, 1921,[3] restoring friendly

[1] Treaties, Conventions, etc., of the United States, III, p. 3301, 3305.

[2] The gold franc is 19.3 cents, or 5.1816 to the dollar.

[3] Treaties, Conventions, etc. . . . United States, III, p. 2596.

relations Germany undertook to accord to the United States "all the rights, privileges, indemnities, reparations or advantages" specified in a Congressional resolution and including also its rights and advantages under the treaty of Versailles. By an agreement of August 10, 1922,[1] a German-American Mixed Commission was established to determine German liability for American claims arising since July 31, 1914, resulting from German seizures of property; claims for loss or damage since the same date incurred as a consequence of the war; and debts owing to American citizens by the German Government or its nationals. These three categories of claims involved settlement for damages incurred while the United States was both a neutral and a belligerent. The resulting commission, while it made free use of the precedents of the mixed arbitral tribunals established under the treaty of Versailles and other treaties of peace, did not create awards payable by Germany under the reparation clauses of the treaty of Versailles.

Following the participation of the United States in the London conference for putting the Dawes Plan into force, representatives of Belgium, France, Great Britain, Italy, Japan, the United States, Brazil, Greece, Poland, Portugal, Rumania, Serb-Croat-Slovene State and Czechoslovakia met at Paris, and on January 14, 1925, signed an agreement regarding the distribution of the Dawes annuities. At that time the United States asserted its claim to be considered a creditor of Germany. By Art. 3 of the agreement[2] provision was made for the payment out of the Dawes annuities of a specified sum to repay the costs of the United States army of occupation from 1919 to January, 1923, and a percentage of the Dawes annuities at a certain point in the distribution was assigned to the United States to meet its other claims. In the five years of the Dawes Plan the United States received under these two heads 298,950,289 Reichsmarks. The total United States army costs were

[1] Treaties, Conventions, etc., . . . United States, III, p. 2601.

[2] *Reparation*, Part VI, p. 279.

originally determined as $292,663,435,[1] an amount reduced by 1923 to a net of $247,865,645. An agreement of 1923 and the operation of that agreement reduced the amount to approximately $194,000,000 as of September 1, 1929. On that date the total claims awards were on estimate about $257,000,000. The indicated total due was, therefore, $451,000,000 in round numbers.

Under the Young Plan the annuity shares assigned to the United States run through the initial period of 37 years and 15 years of the out-payment period, amounting to a total of 3,169,700,000 Reichsmarks. The payments accepted under the schedule "are intended to repay to the United States in full the amount of the awards made by the Mixed Claims Commission, United States and Germany, and to reimburse the United States for the costs of its Army of Occupation."[2] The President in his annual message to Congress of December 3, 1929, said: "In finding a basis for settlement it was necessary for the Committee of Experts to request all the Governments concerned to make some contribution to the adjustment, and we have felt that we should share a proportion of the concessions made." The reduction on army costs amounts to 10% of the original amount, or $29,266,000.

The United States did not choose to receive its annuities under the 1929 Committee of Experts' Plan on the same basis as the other creditors of Germany, in part due to the different conditions which maintain respecting this debt. On the other hand, the Washington Government had not yet formally negotiated any agreement with Germany, the fulfilment of which would formally and legally discharge that country from the obligations involved. The United States was not disposed to accomplish the last condition by becoming a contracting party to the decisions of the Hague conference.

The agreement initialed December 28, 1929, fixes the annual German payment on account of mixed claims at

[1] *Report of the Secretary of the Treasury*, 1928, p. 95.

[2] Letter of Ogden L. Mills, Undersecretary of the Treasury, September 5, 1929.

40,800,000 Reichsmarks through the German fiscal year ending March 31, 1981. The annual payments for occupation costs range between 16,400,000 and 35,300,000 Reichsmarks through the fiscal year ending March 31, 1966, an average of 25,300,000 Reichsmarks for 37 years. The payments are to be made semi-annually instead of monthly as under the Young Plan, and in other respects the arrangement conforms to details of the debt-funding agreements of the United States, including payment at the Federal Reserve Bank of New York for the account of the United States Treasury. (The United States undertakes not to capitalize the certificates of indebtedness.) Germany may make prepayments, and possible deferment of payments for 2½ years, instead of two years, is provided for on 90 days' notice.[1]

By Par. 4 of the agreement, the United States agrees to accept the full faith and credit of Germany as the only security and guaranty for the fulfilment of Germany's obligations. An accompanying exchange of notes records that this places Germany in the same position in this respect as principal debtors of the United States under the existing debt-funding agreements. At the second session of the Hague conference, the chairman, by request of the German Government and with the knowledge of the American observer, distributed texts of the agreement to his colleagues. This article called forth some debate and became a precedent affecting the arrangements between the other creditors and Germany, respecting the final arrangement on guaranties.[2]

Source of the Annuities

The source of the amounts which Germany is to pay on the recommendations of the Committee of Experts is largely the same as under the Dawes Plan, but fundamental changes in the mechanism of collection justify the asser-

[1] The precedent for this deferment period occurs in the debt-funding agreement between Greece and the United States.

[2] See p. 44 for the resulting exchange of notes and p. 243 for text of the German agreement with the United States.

tion that the New Plan restores German financial autonomy and leaves to that country "the obligation of facing her engagements on her own untrammeled responsibility." The Dawes Committee of Experts selected portions of the Government's sources of income, created special controls or supervisions over them, and assigned fixed amounts of their product to make up the annuity. That committee adapted this plan as closely as possible at the time to the ordinary machinery of governmental fiscal operations. The net result was not unfamiliar in international finance, amounting to a series of pledged revenues placed under the supervision of commissioners representing the creditors.

The object of the Young Committee of Experts was to remove such supervision and to advance the payment of reparation by Germany to a position where it could be effected solely on the credit of the debtor. The New Plan is less precise than the Dawes Plan in its designation of the source of German revenues for reparation account, as is natural when the governmental credit is substituted for specifically controlled revenues. On the other hand, the New Plan contemplates that the German income will have about the same sources in the future as under the Dawes annuities. These sources are two in number: (1) The budget of the Reich; (2) the German Railway Company.

By the Dawes Plan, the contribution from the budget proper amounted to half the standard annuity, an amount specifically secured by the assignment of the revenues from customs, beer, tobacco, sugar and alcohol to the commissioner of controlled revenues. The system of control consisted of paying the entire revenue from these sources into the account of the commissioner at the Reichsbank. Each month Sir Andrew MacFadyean paid one-twelfth of the annual contribution from the budget into the account of the Agent-General for Reparation Payments at the Reichsbank. After the establishment of a guaranty fund, he remitted the rest to the account of the German Government at the Reichsbank. As those pledged revenues are the logical ones from which to obtain a con-

siderable portion of the budgetary contribution, it is not contemplated by the New Plan that those revenues will cease to furnish substantial reparation amounts. However, since the organizations for reparation payments in Berlin are to be retired (Plan 6 (*c*)) and the Bank for International Settlements will in large measure succeed the Reichsbank in the handling of accounts, the New Plan does not go into detail as to the future procedure, which "will be worked out in detail by the appropriate organization committee." [1]

About 11.6% of the standard Dawes annuity was derived under the Dawes Plan from the transport tax, which was imposed by the German Government and collected by the German Railway Company. Under the Dawes Plan, this specific tax was insisted upon by the creditors. The New Plan does not provide for its maintenance, but gives the German Government the option of including its amount, if necessary, in the direct tax on the German Railway Company.

A third taxation element in the Dawes Plan was placed upon German industries by the industrial charges law and resulted in the system of industrial debentures. The mechanism of industrial debentures, which gives a result very like the normal product of a corporation tax, proved to be very complicated. For the purpose of handling the system, a Bank for Industrial Obligations was created, and the trustee representing the creditors conducted extensive investigations into the conditions of industrial activity.[2] The total of industrial debentures was fixed by the Dawes Plan at 5,000,000,000 Reichsmarks. By a system of selection — very complicated but generally speaking equitable — this charge was assumed originally by more than 60,000 industrial concerns which were obligated

[1] The committee to adapt the system of controlled revenues under the Dawes Plan consisted of delegates appointed by the Reparation Commission and two by the German Government. The commissioner under the Dawes Plan was a creditor delegate.

For a final summary of the tax receipts and other details see the commissioner's report of November 20, 1929 (Reparation Commission, *Official Documents*, XXIIA, p. 183).

[2] His periodical reports embody valuable and unique information respecting national industrial changes.

by the German law to accept the charge. Some 600,000,000 Reichsmarks were transformed at an early stage from industrial bonds into individual negotiable debentures as a convenience to a group of the concerns affected. The rest remained, as it were, a joint and several blanket charge on the other industries. By the terms of the Dawes Plan, the industrial debentures yielded a standard annuity payment of 300,000,000 gold marks representing 5% interest and 1% amortization. Two amortizing periods had elapsed by September 1, 1929, on which date about 4,897,500,000 Reichsmarks net of the obligation were outstanding.

The complications of managing the debentures proved to be excessive. For instance, in the year ending September 1, 1928, the revision of the number of concerns liable to issue non-negotiable individual debentures was reduced from 58,555 to 40,160.[1] In the same period, 319 cases of bankruptcy involved readjustments, while accounts had to be handled with 602 concerns undergoing voluntary liquidation. In the same year, a second distribution of the entire charge among German industries was made, the first not having proved entirely satisfactory and not having fully met expectations.

The Committee of Experts, 1929, states that "this particular charge in no way differs from ordinary taxation save in the complications it involves in legislation and the machinery of collection. We recommend that it be discontinued, and that its disappearance be taken into account in distributing the relief from taxation which this plan will enable the German Government to bring into effect."

With this accomplished, a minor international financial question has been resolved. In the case of German industrial concerns seeking foreign loans, the question as to what extent the industrial debentures charge represented a preferred claim has been extensively discussed.[2]

[1] Reparation Commission, *Official Documents*, XIXA, p. 232. The number on June 15, 1929, was 39,949 (*ibid.*, XXIA, p. 214).

[2] See for instance, Roland W. Boyden, "The Priority Question," *Foreign Affairs*, VI, p. 368.

The Young Committee of Experts propose that these three specific taxation obligations shall be divested of their present character and assimilated to the budgetary system of the Reich. As a consequence, they recommend "that the creditor Governments should take steps to release all controls, special securities, pledges or charges which may remain in their hands other than those specifically referred to . . . and should recognize that their acceptance of the solemn undertaking of the German Government replaces any securities, pledges, charges or controls as may now exist."

The passage preceding that just quoted provides for maintenance of the pledges securing the service of the German external (Dawes) loan of 1924 and also mentions "that one source of payment utilized by the Dawes Plan, viz., the railway company, should be maintained," not from the sole point of view of security, "but also as a suitable method of raising the necessary revenue." The change contemplated in the control of the German Railway Company is, nevertheless, important. In the condition of German public finance in 1924, the Dawes committee found that the railroads owned by the Government were a valuable, and almost the only clear, asset of the Government. At that time, there was a definite conception of mobilizing the reparation payments so as to give the creditors capital amounts by placing German bonds in the hands of the investing public. With a view to realizing this plan, which had been provided for in the treaty of Versailles, the Dawes committee stipulated that the German railway asset should be transferred to a company having a capital value of 26,000,000,000 gold marks and that the company be subjected to a mortgage for 11,000,000,000 gold marks in favor of a trustee representing the creditors. The bond for that amount bears interest at 5% per annum, and the cumulative sinking fund of 1% became operative on September 1, 1927. On September 1, 1929, amortization of 225,500,000 Reichsmarks had been effected.[1] The yield from these charges

[1] See table in Reparation Commission, *Official Documents*, XIXA, p. 300, and supplementary table at p. 302.

was 660,000,000 Reichsmarks per annum and constituted substantially a quarter of the Dawes annuities. As a part of the security under the Dawes Plan, the managing board of the company was made up both of members appointed by the Government of the Reich and by the trustee for the railway bonds, who was Léon Delacroix (Belgian). The railway company itself was subjected to the supervision of Gaston Leverve (French), commissioner for the German railways, who had extensive powers of supervision and, in case of necessity, of control. It is proposed by the Young Committee of Experts to abolish "the railway bonds, together with the attendant circumstances of foreign participation in the management of the railway."

Inasmuch as the railway bonds have already existed and create a basis of credit for mobilization, the exact proposal substituted merits careful explanation. By it, the German Railway Company continues its autonomous existence under legislation of the Reich, but its former obligation in connection with reparation ceases and is replaced by a tax. German legislation now imposes a direct tax upon the railway company for 37 years amounting to 660,000,000 Reichsmarks per year.[1] The identity of the sum with the yield of the bonds under the Dawes Plan has in some instances created an erroneous impression that the bonds themselves are to be retained. The German Government by the New Plan guarantees the creditors' receipt of this direct tax, and the railway company itself deposits with the Bank for International Settlements "a certificate acknowledging its liability in respect of this obligation." The direct tax is to come from the gross revenues of the company, ranking after expenditure on personnel and on the same footing as expenditures on material and consumable stores, with priority over any other tax or any other fiscal charge. The railway company is, however, to pay the tax directly to the account

[1] The committee to adapt the German railway law of August 31, 1924, to the new conditions was made up of two delegates appointed by the Reparation Commission, including the commissioner Gaston Leverve, and two by the German Government.

of the Bank for International Settlements at the Reichsbank in Berlin, rather than to the account of the Minister of Finance of the Reich.

Thus, with a single exception, the German Railway Company becomes an independent corporation, in financial parlance, a wholly owned subsidiary of the German Government. The exception is that the organization committee to put the New Plan into operation is to "make suitable provision whereby the private and independent character of the German Railway Company, including its autonomous administration in economic, financial and personnel matters, shall continue for the period of the plan without interference from the German Government."[1]

The effect of these arrangements is to draw the annuities from the German budget as such, and from what may be regarded as a special budget made up of the German Railway Company tax.

In the second year, allowing 88,500,000 Reichsmarks for loan service, the total payments will amount to 1,796,400,000 Reichsmarks, of which 1,136,400,000 will come from the budget proper and 660,000,000 from the railway company tax. The budget contribution will rise to 1,768,800,000 Reichsmarks in the 37th year, the average increase in the first 20 years — representing the life of the external loan — will be only 24,000,000 Reichsmarks per year or less than one-fourth of 1% of the total budget.

The Nonpostponable Portion

One reason for the guaranty of the contribution from the railroad tax of 660,000,000 Reichsmarks was to insure a certainty of uninterrupted payment of that amount. One of the reasons which influenced the creditors to agree to reduce the Dawes annuities was the arranging for a nonpostponable portion of each annual payment, which might constitute the basis for an issue of bonds which could be sold to the public at an early date, thus providing cash for

[1] Report, Par. 108.

distribution to the creditors. It was recognized that situations might arise under which the most carefully worked out scheme of future payments would be subject to modification by reason of conditions in Germany. The Committee of Experts was unwilling to fix a total sum too low. On the other hand, they recognized that Germany's estimated maximum capacity to pay and to transfer these payments into foreign currencies was not a safe basis for the annuities. They attempted to determine Germany's normal capacity and thus to propose "a series of total annuities which should be paid with the regularity of the coupons of ordinary marketable bonds."[1]

The leeway which was agreed upon took the form of dividing the annuities into a postponable and a nonpostponable part. The division was both delicate and difficult, since "the point at which difficulties might begin to arise in making transfers into foreign currencies is not exactly definable in advance." In order to be on the safe side, the nonpostponable part of the annuity was fixed at 660,000,000 Reichsmarks. The committee regarded this figure as a deliberate underestimate, but were satisfied that it was not wise to propose a figure which would not command "instant acceptance by well-informed public opinion."

The nonpostponable portion of the annuity is given a further guaranty, in addition to the special one of the German Government and the direct form of the collection of the tax which provides it. France has been very anxious to mobilize a portion of its reparation credit by the issuance of bonds. In order to enable this to be done, the experts of the principal creditor countries agreed that France should be assigned 500,000,000 Reichsmarks out of the unconditional portion of the annuity. As the service of the Dawes loan (averaging 61,800,000 Reichsmarks) comes out of that nonpostponable portion, France itself was slated to receive more than 83% of the total available for commercialization and mobilization.[2]

[1] Report, Par. 75.

[2] See the Report of the French Delegates, *European Economic and Political Survey*, IV, at p. 588.

As a result of this proportion being finally assigned to one creditor, France agrees to deposit a special guaranty fund with the Bank for International Settlements in order to equalize the short payments to other creditors which would arise from a temporary diminution of the postponable portion of the annuity (Annex VIII). This guaranty fund is to amount to 500,000,000 Reichsmarks and will constitute a trust fund to insure to each of the other creditors the regular receipt of foreign exchange equivalent to what would be due them if no postponement had taken place. On the full resumption of payment, Germany would replenish the trust fund.

The Committee of Experts fixed the nonpostponable annuity at 660,000,000 Reichsmarks, inclusive of the charges for the Dawes loan. This left 598,200,000 Reichsmarks for allocation. The committee [1] recommended that 500,000,000 of this sum should be allocated to France and 42,000,000 should be apportioned to Italy, which was to have no further claim upon it until the remaining 56,200,000 Reichsmarks was allotted by "an equitable apportionment" among the creditors entitled to share in the annuities "by agreement of all the Governments." To secure a definite allocation of part of that sum to the British Empire was one of the reasons for the policy it adopted at The Hague. By the protocol of August 31, 1929, a change in total and the completion of distribution were made. Annex I to the protocol of August 31, which accepted the Experts' Plan in principle, provides that "the amount of the unconditional annuity shall be fixed at 612,000,000 Reichsmarks a year (excluding whatever sums are required for the service of the German external loan of 1924)." The creditors and Germany, therefore, agreed to the nonpostponable annuity being raised to 673,800,000 Reichsmarks instead of 660,000,000. This slight addition to which Germany agreed left the conference with 70,000,000 Reichsmarks for unconditional distribution. The total by this final arrangement is allocated as follows:

[1] Annex VII, par. 189.

	Reichsmarks
German external loan (average)	61,800,000 [1]
France	500,000,000
Italy	42,000,000
British Empire	55,000,000
Japan	6,600,000
Yugoslavia	6,000,000
Portugal	2,400,000
	673,800,000

The significance of the nonpostponable part of the annuity merits a word. Created for the purpose of affording a sound basis for the issuance of bonds to the public, the certainty of its continuous payment is its essential characteristic. However, in normal conditions its position will not be particularly special, being evidenced by bookkeeping and coupon priority. So long as the total annuity is paid, only technical distinctions of handling will identify that portion. Not until German capacity to collect foreign currencies in a given year should fall below the full amount would the special provisions securing the nonpostponable part of an annuity come into definite operation.

The detailed working of the system is: The certificate of indebtedness, deposited in trust with the bank, bears a coupon for each annuity divided into two parts representing the nonpostponable and postponable parts respectively. A certified schedule (Exhibit C) of the Trust Agreement directs the bank exactly how much money to transmit to each creditor under both heads: First, the Dawes loan service, second, the remainder of the nonpostponable portion, third, commitments on account of deliveries in kind, fourth, payment on the postponable coupon account.[2] If a difficulty of transfer should develop, the same order of distributing available currencies is fol-

[1] The actual cost of loan service in 1929–30 will be approximately 88,500,000 Reichsmarks, with an annual decrease of interest from amortization repayments until its extinction in 1949.

[2] Trust Agreement, Art. IV (*a–e*); the details are in the certificate of indebtedness, III, IV, *infra*, p. 234.

lowed, the guaranty fund of 500,000,000 Reichsmarks in foreign currencies being resorted to.[1] The whole Plan expresses the conviction that Germany could not conceivably fail to raise the amount of the nonpostponable part in Reichsmarks. If world conditions were such that it had difficulty in securing foreign currencies, the bank's facilities for acquiring exchange might be utilized.[2]

The Postponable Portion

The postponable part varies between 61% and 73% of each annuity. The committee states that the proportion "is not to be taken as evidence of doubt as to Germany's capacity of transfer (or of payment); it represents rather the concession that has been made to the honorable determination of the German experts not to make themselves unconditionally responsible for any obligation which they are not certain is within their power of performance in all circumstances." It further represents a change of policy as compared with the Dawes Plan. In this, the responsibility for transfer was entirely borne by the creditors and managed through the Transfer Committee. Under the New Plan, Germany accepts the obligation of getting payments across the exchanges, and the establishment of a postponable part of the annuity gives a certain elasticity to the solution of the problem. The Bank for International Settlements will undoubtedly facilitate the process.

Postponement is not contemplated by the Committee of Experts as a normal procedure to be followed.[3] The committee emphasizes that the total annuity "is one which they have every reason to believe can in fact be both paid and transferred by Germany." The provision for postponement, by affording an opportunity to get over a period of temporary difficulty, makes possible the functioning of the New Plan under unforeseen conditions.

[1] Trust Agreement, Arts. XI, XIII.

[2] *Ibid.*, Art. III.

[3] For the German undertaking see Art. VIII of the agreement, *infra*, p. 196.

It is the debtor that must raise the question of postponement. If the question should be raised, machinery for its examination and for providing a transitional system is indicated in detail. The Committee of Experts points out that this supplies an additional margin of safety.

By the system indicated, Germany has the right (Part 8 (*e*)), "on giving 90 days' notice, to postpone transfers for a period not exceeding two years," under detailed conditions (Annex IV). All amounts postponed are eventually to be paid by Germany, so that the system gives the Reich no advantage and consequently would not be misused. The primary system does not contemplate the cessation of German payments, but only postponement of transfer from the account of the Bank for International Settlements at the Reichsbank across the exchanges.

In case of postponement of transfer, the creditors may utilize their quotas by absorbing them through deliveries in kind. In the first 10 years, the current program of such deliveries would be modified; subsequently a special program would have to be arranged. By this provision, the experts show an appreciation of the fact that the normal payments under the plan do not represent an obvious exchange of goods and seek to facilitate a solution of the temporary problem through resort to a form of such exchange.

The declaration by Germany upon its own initiative of a postponement would start a delicately adjusted inquiry. In such a case, the Bank for International Settlements is to convene a Special Advisory Committee, at Germany's expense, consisting of seven ordinary members nominated by the governors of the banks of issue of Germany, France, Great Britain, Belgium, Italy, Japan and the United States ("or some other agreed American financial institution"), and in addition four coopted members who are to be experts respecting aspects of the particular situation in question. This committee is to consider the circumstances and conditions existing at the time, make necessary investigations, and render a report to the Governments and to the bank.

If the committee has satisfied itself that Germany has used every effort to fulfill its obligations, the committee will suggest measures appropriate to applying the Plan under the existing situation. The committee acts in a purely consultative capacity, and its findings "have no effective force unless confirmed and accepted by the bank as trustee of the creditors, and if necessary by the Governments concerned." Any connection of the committee with the non-postponable part of the annuity is specifically excluded.

It will be noted that this system places the whole responsibility of any postponement directly upon Germany. It is possible that the procedure indicated would not be followed in the order provided for by the Plan. Germany would doubtless seek to consult the bank, and the creditors before declaring a postponement. In case the declaration were solely upon German initiative or in case Germany requested a prior convening of the Special Advisory Committee, this committee is constructed to insure an objective and practical view of the facts involved. The committee's report is calculated to inform the Governments concerned. If the postponement of transfer were fully justified and if the continued application of the Plan involved no essential alteration of it, it is conceivable that the bank might be left to decide on the immediate procedure. As, however, a postponement has the effect of shifting responsibility for transfer of funds temporarily from the debtor to the creditors, the Governments concerned would almost certainly have to take the final decision.

It is not, however, to be expected that this machinery, which leaves it to Germany to question its own credit, would be invoked for slight cause. The occasion for calling the Special Advisory Committee into action would undoubtedly be a most serious one, beyond the ability of the Bank for International Settlements, the German and creditor Governments to overcome through ordinary procedure. Its convocation, consequently, would point to an investigation of a nature to bring out recommendations for revision of the system. If, as a practical matter, such a

committee, after full examination, should report that the payments provided in the Plan were too heavy and ought to be permanently reduced, it would be very difficult for the Governments concerned which are represented on the committee to reject the findings, and if they accepted them this would amount to a permanent revision of the Plan somewhat similar to the revision of the Dawes Plan by the Young Committee.

Postponement of transfer may be made for a maximum period of two years. After it has been in effect for one year, the German Government has the right to postpone the payment of one half of any sum the transfer of which is then susceptible to postponement. The Special Advisory Committee may recommend the increase of this percentage.[1]

Deliveries in Kind

The system of deliveries in kind is to be continued on a diminishing scale for a period of 10 years. Provision for later reverting to the system to aid the transfer of funds in case of a temporary postponement is provided for but, with that possible exception, the very complicated mechanism of paying reparation by delivery of commodities will cease on August 31, 1939.

Deliveries in kind were provided for in the treaty of Versailles. By Annex IV to Part VIII of that treaty, Germany was to "devote her economic resources directly to the physical restoration of the invaded areas" to the extent that the injured might determine. By Annexes V and VI, Germany was to deliver coal and coal derivatives, dyestuffs and chemicals as a part of reparation for specified periods with a view to filling commodity vacuums in the victor countries. The general system of deliveries in kind, however, was in 1919 regarded as a means of securing larger payments from Germany than could be made in the form of cash only.

[1] Plan, Annex IV, 3.

The creditor Governments were never of one mind respecting deliveries in kind. All of them were willing to receive noncompetitive goods to the extent that the trade did not unduly strengthen the German industrial and commercial position. All of them considered carefully whether extensive deliveries in kind would not constitute a form of "dumping" of German exports abroad. Germany was unwilling to see deliveries in kind resold out of the boundaries of the recipient state. Victorious nations did not desire to see German industries positively developed as a result of business done for the account of deliveries in kind. Germany was unwilling to subordinate its commercial and industrial structure and activities to the demands of reparation. For several years there was a general refusal by creditors to permit German contractors to erect extensive public works on account of deliveries in kind, notwithstanding that they would be real capital additions to the benefited nation.

Gradually from 1921 to 1925, a series of complicated regulations was developed, and under the Dawes Plan régime substantial deliveries in kind were made under conditions closely approximating commercial transactions. The regulations set forth in detail commodities that could be ordered without restriction, those which could be had under various restrictions, those that could be had by mutual agreement, and those that were not subject to delivery at all.[1] The program of orders was examined and approved both by national authorities and the Reparation Commission, and increasingly took on normal commercial aspects. The following table shows the development of deliveries in kind as to number of contracts and value:

[1] *Regulations for Deliveries in Kind* (Reparation Commission, *Official Documents* IX).

	Contracts	Value[1] (Reichsmarks)
1st year	–	454,000,000
2d year	3,706	667,000,000
3d year	4,666	795,000,000
4th year	5,421	968,000,000
5th year	5,160[2]	985,000,000[3]

It can be seen from this brief review that the system of deliveries in kind operated in a very cumbersome manner, even though it had latterly run with reasonable smoothness. It had come to be regarded as an abnormal form of commercial transaction of decreasing value to the creditors as their industrial production recovered, and as a system hampering the normal development of German industry and commerce.

The close assimilation of deliveries in kind to the normal forms of trade under the Dawes Plan régime had nevertheless caused it to play an important rôle in the economic life of Germany. Moreover, such an artificial system of trade was felt by the Committee of Experts to be somewhat inconsistent with their fundamental purpose of transforming the payment of reparation from a semi-political to a completely economic basis. The Committee of Experts, therefore, recommended that the creditor nations should agree to absorb over a period of 10 years a limited and decreasing amount of the postponable portion of the annuity in the form of deliveries in kind. The schedule provided for 750,000,000 Reichsmarks of deliveries in the first year and 300,000,000 in the 10th and last year; the total to be absorbed in 10 years is 5,250,000,000 Reichsmarks. The Bank for International Settlements will succeed the Reparation Commission in managing the disbursements on the account, and the committee recommends

[1] Includes value of deliveries covered by special agreements as well as those by ordinary commodity contracts.

[2] Nine months only.

[3] Twelve months.

that the regulations in force shall be simplified and liberalized.

Deliveries under the reparation recovery acts may be regarded as deliveries in kind up to 23.05% for Great Britain (the whole percentage) and up to 4.95% for France.

In view of the limits which they have placed upon deliveries in kind as respects both annual amounts and the annuity periods over which they are to continue, the Committee of Experts felt free to recommend that the new regulations should permit "the several powers to dispose of some part of their respective quotas of deliveries outside of their own territories under suitable restrictions." This possibility of the resale of German commodities delivered on reparation account was viewed by the Grand Council of the Federation of British Industries "with considerable apprehension" in a unanimous resolution passed July 15.[1] The Federation urged that the new regulations should include "the most stringent safeguards in regard to territorial extension and the strictest possible limitation of the classes of goods to which it shall apply."

The schedule of quotas of delivery in kind to the various countries given by the Committee of Experts (Annex VII) was based upon the Spa percentages. It reduced the amount of deliveries in the first year under the Young Plan to about 75% of those made in the fifth year of the Dawes Plan.

At the August session of the Hague conference, the Young Plan arrangement was altered in some respects. Provision was made for the committee [2] contemplated to draw up new regulations for deliveries in kind and to effect the transition from the old to the new system. The conference provided that the new regulations should be binding on the Bank for International Settlements. In accord-

[1] London *Times*, July 16, 1929, p. 13.

[2] The Technical Committee on Deliveries in Kind met at Paris, September 16–November 30, 1929, at the French service, rue Montalembert. The committee consisted of the following delegates: France: M. de Peyster, chief of service of deliveries in kind; Belgium: M. Perier; Italy: Signor Mosca; Great Britain: Faryer; Germany: Herr Litter; Yugoslavia: Danič; Japan: Kuichi.

ance with the wish of the British Empire, the conference canceled the suggestion of the Committee of Experts that the recipients of deliveries in kind should be permitted to dispose of part of their shares outside of their own territories and the general principle of prohibition of re-export of such goods was reiterated. Following the Young Plan, the reparation recovery act levies were declared to be *pari passu* with any deliveries in kind, and the British quota of such deliveries may be wholly taken in that form.

The conference provided for a committee, to be convened by the Bank for International Settlements and consisting of representatives of each signatory Government, to apply any special program involving an extension of deliveries in kind during the first 10 years or any program after the first 10 years. This committee may decide by a majority vote. If the interests of any government are prejudiced by the decision of the committee, its member may suspend the execution of the decision with relation to that government and call upon an arbitrator of high commercial and financial standing to render a decision within 14 days concerning the approval or rejection of the program or a part of it.

The British objection to the effect of deliveries in kind upon the status of its foreign trade resulted in a special arrangement with Italy, which also affected France. The schedule of deliveries in kind for the first 10 years gives Italy amounts ranging from 75,000,000 Reichsmarks down to 30,000,000, a total of 525,000,000 Reichsmarks in the 10 years. Italian receipts in kind have been almost exclusively coal for the railroads, and in the earlier years under the original Young Plan schedule, it gets substantially its requirements. The Italians agreed to take the average of 52,500,000 Reichsmarks for each of the 10 years in order to accommodate the British. In view of this adjustment, the Italian Government undertook on behalf of the Italian state railways to purchase 1,000,000 tons of British coal yearly for the three years November 15, 1929, to November 14, 1932, and further to abstain from importing more than

1,500,000 tons of reparation coal per annum during the 10-year period. In order to conform to the schedule of total deliveries in kind in the 10-year period, France agreed to a readjustment with Italy, taking the surplus above Italy's average of 52,500,000 in the earlier years and yielding amounts to provide the Italian average in the later years. As a consequence, French deliveries in kind were determined to range from 430,900,000 Reichsmarks in the first year to 140,800,000 in the 10th year, as compared with the original assignment of 408,400,000 down to 163,300,000.

At The Hague in January the 10-year schedule was revised to conform with the fiscal year of the New Plan and to specify the reparation recovery act receipts included in each year, which amount to 28% of the 10-year total. The revised table,[1] attached to the new regulations,[2] assigns payments to the transition period, September 1, 1929-March 31, 1930. Nine full years follow and deliveries end in the overhang period, April 1–August 31, 1939.

[1] See *infra*, p. 184.

[2] Text in *Agreements*, p. 80.

DAWES ANNUITY DISTRIBUTION

By Countries

(In Reichsmarks, 000 omitted)

(National totals include receipts for army of occupation costs, Belgian war debt and restitution.)

	1st Annuity [1] Final	2d Annuity [2] Final	3d Annuity [3] Revised	4th Annuity [3] Revised	5th Annuity [3] Approximate
1. France	454,512	584,614	747,775	887,855	1,290,203
2. British Empire	191,047	240,673	309,923	369,650	541,823
3. Italy	66,814	86,063	97,756	118,719	185,064
4. Belgium	115,947 [4]	105,350 [4]	76,114 [4]	86,824 [4]	128,829 [4]
5. Yugoslavia	33,435	43,068	48,920	59,399	90,115
6. United States	15,359	19,784	79,969	85,318	100,000
7. Rumania	7,534	9,704	12,296	14,930	23,005
8. Japan	5,005	6,447	8,299	10,076	15,214
9. Portugal	5,005	6,447	8,250	10,017	15,139
10. Greece	2,669	3,438	4,344	5,274	7,989
11. Poland	129	166	210	255	655
	897,456 [5]	1,105,754 [5]	1,393,856 [5]	1,648,317 [5]	2,398,036 [5]
Service 1924 loan	76,979	92,234	91,328	90,573	89,412
Interallied commissions	25,820	17,759	10,618	9,114	11,518
Discount in railway interest	–	7,410	6,481	7,093	8,091
Total	1,000,255	1,223,157	1,502,283	1,755,097	2,508,057

By Classes

Army costs:					
Arrears	11,250	18,646	73,750	85,000	85,000
Current	160,000	151,676	139,525	129,854	126,597
Belgian war debt	36,310	46,772	59,029	71,673	109,322
Restitution	7,262	9,354	11,806	14,335	36,847
American mixed claims	15,539	19,734	24,969	30,318	45,000
Reparation	667,275	859,522	1,084,777	1,317,137	1,995,270
Loan service	76,979	92,234	91,328	90,573	89,412
Interallied commissions	25,820	17,759	10,618	9,114	11,518
Discount in railway interest	–	7,410	6,481	7,093	8,091
Total	1,000,255	1,223,157	1,502,283	1,755,097	2,508,057
Transfer percentages:					
Foreign currencies	30.37	35.35	49.45	54.23	57.83
Reichsmarks	69.63	64.65	50.55	45.77	42.17

[1] *Report of the Agent-General*, November 30, 1926.

[2] *Ibid.*, December 22, 1928, p. 170–173.

[3] *Ibid.*, July 1, 1929, p. 151–153.

[4] Includes receipts on account of the Belgian war debt payable to the United States, the receipts in annuity years being: 1st, 5,338,000 Rm.; 2d, 6,877,000 Rm.; 3d, 8,678,000 Rm.; 4th, 10,537,000 Rm.; 5th, 16,072,000 Rm.

[5] Includes interest earned as follows: 1st, 255,000 Rm.; 2d, 3,157,000 Rm.; 3d, 2,283,000 Rm.; 4th, 5,097,000 Rm.; 5th, 8,057,000 Rm.

IV. THE BANK FOR INTERNATIONAL SETTLEMENTS

1. Abolition of Semi-Political Organizations

While the Committee of Experts in other respects built the recommendations of their report upon the facts of reparation, they produced in the Bank for International Settlements a wholly new financial system for the management of the payments. Their inquiries into the problem, they say in their report, "were found to be converging upon one central point, viz., the nature of the authority which should act as the chief medium for discharging the various functions under a new plan." In their exploration of the problem "of substituting authority of an external, financial and nonpolitical character for the present machinery and controls of the Dawes Plan . . . , they immediately met with the necessity for a trustee to whom the payments in foreign currencies and Reichsmarks should be made by Germany and by whom the distribution to the appropriate recipients should be managed.

"In the second place the problems of mobilization and commercialization demanded a common center of action and authority for the purpose of coordinating and controlling the arrangements, and there were obvious advantages in such an authority being of a continuous or permanent character." [1] In meeting such conditions, they found that the requirements were a permanent central authority capable of acting with expertness upon such subjects as the management of accounts, questions of transfer, and the effects of international payments upon immediate export trade. This analysis of requirements caused the committee to envisage the possibility of a financial institution and to elaborate a plan for a Bank for International Settlements "which should, in its various functions, meet all these points."

[1] Report, Par. 39.

"It will be seen that the essential reparation functions of the bank were such as to form a solid reason for its existence; but the committee were led inevitably to add to those reasons the auxiliary, but none the less material, advantages that it might have in the general position of present international finance." The bank, therefore, has two categories of functions: The first as to reparation being primary, and the second as an international financial institution, secondary, permissive and undeveloped in detail by the Committee of Experts, who believed that, if it should eventually furnish "to the world of international commerce and finance important facilities hitherto lacking," the development should be a matter of normal evolution.

The System Supplanted

The system for the management of reparation which had grown up and for which the bank is substituted should be clearly in mind. The negotiators of the treaty of Versailles provided for a Reparation Commission to be made up of delegates of the United States, Great Britain, France, Italy, Japan, Belgium; and Czechoslovakia, Poland, Rumania and Yugoslavia for questions relating to Austria, Hungary or Bulgaria under their treaties of peace. This commission was empowered to determine the claims of the creditors; to fix the obligations of the debtors; to receive, sell, hold and distribute reparation payments in cash or kind; periodically to estimate the debtors' capacity to pay by examination of their fiscal and taxation systems; to receive, hold and manage the service of bonds representing the indebtedness; to interpret the treaties; and, in case of need, to declare defaults.

It will be noticed that this commission did not include any delegates from the debtors, and was, therefore, a unilateral organization. When Germany received the conditions of peace elaborated by the victors, its delegation prepared detailed comments upon them. Germany recognized, "on principle, its liability for compensation" as to

most of the categories of damages outlined in the draft treaty. It proposed "that a German commission be allowed to cooperate" with the Reparation Commission in fixing the amount of the damage and stated that it could not submit to the annuity "being fixed in a one-sided manner by the representatives of the creditors, the Reparation Commission." [1] These arguments were overruled by the victors, who finally handed Germany an ultimatum as to signing the treaty. The German Government was deeply impressed with the declaration of the United States that it would not claim anything on reparation account. It expected that the presence of an American member on the Reparation Commission would add a disinterested element to its deliberations, which would make the commission's decisions more reasonable than would otherwise be the case. The United States, except at the very outset, never appointed an official member of the commission. It was represented by an "unofficial observer," who cast no vote. As a consequence, the balance of judgment originally contemplated to exist in the commission was never realized. The delegates of Belgium and Japan voted only on specific occasions. In the case of German reparation, therefore, the commission was made up only of the delegates of France, Great Britain, Italy and, usually, Belgium.

The French delegate, representing what may be called the majority interest [2] in reparation, was elected chairman and continued in that capacity. The voting arrangements were significant. Questions "involving the sovereignty" of any of the victors, cancellation or postponement of debt, or interpretation required unanimity. Other questions were decided by a majority vote, and in case of a tie, the chairman (French) had a casting vote. Abstention was a vote against a proposal. It thus came about that in the crucial period of the commission's action, by the absence of an American delegate and the presence of a Belgian one,

[1] *Comments by the German delegation on the Conditions of Peace, International Conciliation*, No. 143, p. 63–68 *passim*.

[2] The French share under the Spa percentages was then 52%.

the commission consisted of four delegates, and the French representative had a casting vote.

The delegates on the commission were subject to control by their national Governments. It was the attempt of those Governments to realize their desires through the commission and the inherent complications and difficulties of the reparation problem which in large measure contributed to the *impasse* of 1923 and 1924. The Dawes committee in 1924 did not make any recommendations respecting the commission, whose functions were not within its mandate. However, the adoption of the Dawes Plan and the establishment of the officials it required led the Governments at the London conference in July–August, 1924, to provide so fully for the operation of reparation by organizations outside the Reparation Commission that the latter ceased to occupy a central position.

The Dawes Plan created the office of Agent-General of Reparation Payments, the incumbent of which was appointed by the Reparation Commission. Functions of the office were in large measure laid down in the plan itself so that S. Parker Gilbert, the permanent appointee, was in effect the active and responsible official from 1924 onward. The Agent-General's principal duty in Germany was to receive payments of all kinds toward the annuity, the funds of which were placed to his credit in the Reichsbank. His principal duty toward the creditors was to transfer the funds to their accounts in collaboration with the Transfer Committee, of which he was the chairman. He was furthermore the coordinating agency between the Reparation Commission and the German Government. In this capacity, under normal conditions, he had a certain amount of supervision over the commissioners of the Reichsbank, of the German Railway Company, industrial debentures and controlled revenues and would have borne a similar relation to the Prosperity Index Committee when it came into operation. By virtue of his position, he was chairman of the Transfer Committee, and maintained relations with the mixed general board of the Reischsbank, the trustees

of the German external loan of 1924, the trustee of the German railroad bonds, who appointed nine of the road's board of directors, the trustee of the industrial debentures and the management of the Bank for German Industrial Obligations.

The listing of this structure gives a sufficient picture for the present purpose of the extent to which payment of reparation under the Dawes Plan was dependent upon foreign supervision and administration.

2. The Structure and Functions of the Bank [1]

Early in the proceedings of the experts they determined that any plan providing a complete and final settlement of the reparation problem ought to place upon Germany the complete responsibility for reparation payments without wartime sanctions and controls or without supervision or administration of the transfer of funds. To this end they decided upon the abolition of the Reparation Commission and all its agencies, including the Agent-General for Reparation Payments and the commissioners, so that no body or individual representing the creditor states should be standing over Germany to determine the amount or time of reparation payments or whether transfers could or could not be made at any given date. Upon reflection, it became obvious that, with the abolition of the organs of control, it would still be necessary to have some organization, non-political in character, to receive (but without authority to collect through sanctions from Germany) the annuities which Germany would agree to pay and to distribute these annuities to the creditors entitled to receive them, as well as to assist in deliveries in kind during the 10 years of their continuance. To provide for the receipt and distribution of the annuities which Germany is to pay on its own responsibility in foreign currency was thus the primary object

[1] Extensive use has been made in this section of the method of treatment and the language of a paper by Jeremiah Smith, Jr., "The Bank for International Settlements," *Quarterly Journal of Economics*, XLIII, p. 713.

in the creation of the new Bank for International Settlements.

The idea of an international bank developed gradually and, so to speak, inevitably. The first conception was simply that of a trustee for the administration of the mechanics of reparation payments. But it became increasingly clear that such an organization would require for its successful functioning a directorate and management of high caliber. Such a directorate might, as a nonpolitical body, be intrusted with such a function as supervising and assisting in the commercialization and mobilization of certain portions of the annuities, a function that had always been contemplated. Such functions were fundamentally those of a financial institution. The very complications of the distribution to be effected pointed to the necessity of providing for still other typically financial functions, such as exchange operations. It was also clear to the experts that a bank performing these necessary functions might offer an opportunity to bring to realization certain conceptions of international financial cooperation which had long been discussed and long desired. As a result of these considerations, the Committee of Experts laid down the structure of the bank, leaving to a committee to be appointed the task of determining the text of the formal constituent documents.

The Organization Committee of the Bank for International Settlements met at the Hotel Stephanie, Baden-Baden, October 3–November 13, 1929. In accordance with Annex I, Part III, of the Plan, it consisted of two members appointed by the governors of each of the central banks of Belgium, France, Germany, Great Britain,[1] Italy and Japan, and two American delegates appointed by the six

[1] Philip Snowden, the Chancellor of the Exchequer, said in the House of Commons on November 5: "No instructions have been given to them by His Majesty's Government in regard to the purely banking aspects of their tasks, but I am keeping in touch with them on the definition of the bank's functions in regard to reparation." (London *Times*, November 6, 1929, p. 7.)

governors of the central banks.[1] This Organization Committee produced the text of the charter of the bank, to be enacted as law by the country in which it is situated, the statute of the bank, and the trust agreement. The committee was called into being by the president of the Hague Conference acting under the Hague protocol of August 31, and its duty was to put into formal shape the indications for the structure of the bank given in Part 6 and Annex I of the Report of the Committee of Experts. The committee had power to modify those provisions, but made few changes in them. The committee took decisions by a three-quarters vote, and the documents produced were signed by all delegates [2] to be submitted for final acceptance by the second session of the Hague conference.

Objects and Capital Distribution

The Bank for International Settlements is a limited share company with its registered office at Basel, Switzerland, established by the central banks of Belgium, France, Germany, Great Britain, Italy and Japan and a financial institution of the United States, incorporated by and receiving its charter under the laws of Switzerland. The bank is generally immune from Swiss taxation, its statutes are sanctioned by Swiss law and may not be amended except in accordance with their own terms, irrespective of consistency with present or future Swiss laws relating to

[1] The delegates were: Belgium: Louis Franck, Governor of the Banque Nationale, Léon Delacroix, Belgium representative on the Reparation Commission (died October 15), M. Paul van Zeeland, director of the Banque Nationale; France: Messrs. Moret and Pierre Quesnay; Germany: Hjalmar Schacht, president of the Reichsbank, and Herr Volcke; Great Britain: Sir Charles S. Addis, K. C. M. G., William T. Layton, C. H., C. B. E., editor of the *Economist;* Italy: Giuseppe Beneduce and Signor Azzolini, director general of the Banca d'Italia; Japan: Messrs. Tanaka, superintendent of the London agency of the Bank of Japan, and Saburo Sonoda, president of the Yokohama Bank, New York. The American delegates, appointed by the six governors of the central banks, were: Jackson E. Reynolds, president of the First National Bank of New York, and Melvin A. Traylor, president of the First National Bank of Chicago. (London *Times*, October 1, p. 16.)

[2] The Belgian delegates signed the report on November 16 at Brussels, noting that in their judgment the selection of Basel as the seat of the bank was due to political considerations. The delegates had withdrawn from Baden-Baden on November 8, prior to the vote on the seat of the bank.

corporations. The bank is not subject to Swiss restrictive legislation. Disputes between the Government of Switzerland and the bank as to the interpretation or application of the charter are subject to arbitration.

The objects of the bank are:

To promote the cooperation of central banks and to provide additional facilities for international financial operations;

To act as trustee or agent in regard to international financial settlements intrusted to it under agreements with the parties concerned.

So long as the Young Plan is in force, the bank must carry out the functions assigned to it in the Plan, facilitate execution of the Plan in the manner of conducting bank affairs, and observe the provisions of the Plan within the powers of the bank as defined in the statutes. Specifically its reparation duties are: As trustee or agent for the Governments to receive, administer and distribute the annuities paid by Germany, supervise and assist in the commercialization and mobilization of certain portions of those annuities and perform such services in connection with payment of German reparation and international settlements "connected therewith" as the bank and interested Governments may agree upon.

The authorized capital of the bank is 500,000,000 Swiss francs ($96,475,000) divided into 200,000 shares of 2,500 Swiss francs ($480.38) issuable at par only, the nominal value to be expressed in dollars and local currency converted into gold mint parity. The Banque Nationale de Belgique, the Bank of England, the Banque de France, the Reichsbank, Banca d'Italia, the Yokohama Specie Bank and a New York financial institution guarantee the total authorized capital, and the bank may begin business as soon as a total of 112,000 shares (56%) has been subscribed by the seven mentioned institutions in quotas of 16,000 each. The remaining 88,000 shares (44%) may be issued by the Board of Directors by offer to central or other banks of other countries whose currencies are on the

gold or gold exchange standard (or those interested in reparation) in lots not exceeding 8,000 shares per country.

Twenty-five per cent only of each share is payable at the time of subscription, the balance to be "called up" at the discretion of the board on three months' notice. Capital of the bank may be increased or reduced by vote of a two-thirds majority of the board. In the case of an increase, the seven guaranteeing institutions are entitled to subscribe for 55% of the increase, the remainder being assignable to other subscribing countries. Shares are registered and transferable on the books of the bank, which retains the faculty of accepting a subscriber. Ownership of shares carries no right of voting or representation at general meetings, both rights being exercised by the central bank or its nominee in proportion to the shares subscribed in each country. The subscribing institution may issue either the shares or certificates against the shares to a banking group within the country, or to others.

Operations and Functions

The operations of the bank are to conform with the monetary policy of the central banks of the countries concerned. The Bank for International Settlements is to afford the central bank of a country in which it plans to operate an opportunity to dissent from its proposal. Disapproval will prevent the operation taking place, and approval may be accompanied by a statement of conditions. General arrangements may be effected for the operation of the bank in a given country. A central bank is not entitled to object to the withdrawal of funds from its market if it did not object to their introduction. As central banks are represented on the board of the bank, there is every possibility of the bank's operations being coordinated with those of the national institutions.

A somewhat different situation exists respecting the Federal Reserve System of the United States. On May 16, 1929, three weeks before the Report of the Committee of Experts was signed, the Secretary of State announced that

the United States Government would not "permit" officials of the Federal Reserve System to serve or select persons to serve in the bank. The Government, however, did not attempt to prohibit the bank from operating in the country. Notice of any proposed action will be given to all central banking systems and may be proceeded with unless objection is made. Neither approval nor disapproval will be given. An objection is interpreted as not involving participation in operations of the bank, and a failure to object is not supposed to be equivalent to an assent.

The functions of the bank respecting reparation will themselves require a wide variety of the operations normal to any banking institution. The statutes of the bank carefully limit its operations to the international financial field and indicate that its normal activities in any country will be supplementary rather than duplicative of the national banking organization, including the central banks. It may deal "with banks, bankers, corporations or individuals of any country, provided that the central bank of that country does not object." Its gold operations include buying and selling for its own account or for that of central banks, holding gold under earmark or in custody for central banks. Gold, bills of exchange and other securities may form the basis of advances to or borrowings from central banks. It may deal with currently marketable paper of prime liquidity, including short-term Government paper for discount, rediscount, purchase or sale. It may buy and sell exchange and negotiable securities (not shares for the account of itself or central banks). It may discount bills from the portfolios of central banks and rediscount those from its own portfolio with them. It may maintain current or deposit accounts with central banks and accept such accounts from them or it may accept deposits resulting from trust agreements between the bank and Governments. It may act as correspondent of central banks, and they may serve it in the same capacity.

The bank may make special agreements with central

banks to facilitate the settlement of international transactions between them either by the earmarking of gold or by open accounts through which assets can be transferred from one currency to another.

Functions prohibited to the bank are:

(*a*) Issuance of notes payable at sight to bearer (it is not a bank of issue);

(*b*) Acceptance of bills of exchange;

(*c*) Making of advances to Governments;

(*d*) Opening of current accounts "in the name of Governments";

(*e*) Acquisition of a predominate interest in any business concern;

(*f*) Owning of real estate permanently beyond the requirements of its own business.

One of the most interesting features of the bank is in the provisions respecting reserve funds. By Art. 26 of the statutes, "the bank shall be administered with particular regard to maintaining its liquidity," and its assets shall be "appropriate to the maturity and character of its liabilities." The Young Plan provided special gold reserve percentages for specified types of deposits.[1] The statutes provide for no gold reserve, but create two reserve funds. The "legal reserve fund" is to amount to 10% of the paid-up capital and is to be created from a percentage of the net profits. A "general reserve fund," which is "available for meeting any losses incurred by the bank," is to be created by a sum subtracted at the fourth point in the distribution of the net profits. This general reserve fund is stipulated by the statutes to be built up to five times the paid-up capital and beyond that will be increased by a very minor percentage of the net profits.

The Annuity Trust Account

The principal deposit in the bank is the general deposit, Annuity Trust Account, received in the bank's capacity as trustee for the creditor Governments and the special man-

[1] Annex I, Sec. X, text in note on p. 218, *infra*.

agement of which is laid down in the trust agreement. It is stipulated that the cooperation with the central banks concerned, in connection with this Annuity Trust Account, "shall be the ordinary relationships obtaining between a bank and its correspondent banks." The German Government shall pay all sums applicable to the service of the annuity into this account. Reichsmark payments "in respect to the railway contribution shall be immediately released to the German Government against equivalent payment in foreign currencies" into the account. In other words, it is the German Government's responsibility to find exchange for the unconditional part of the annuity.

Subject to the transfer postponement clause of the Experts' Plan and except as the bank may request Reichsmark payments, the German Government shall make all its payments on account of the annuity in foreign currencies. The bank may express its preferences for payment in particular currencies, but in any case payments are to correspond as nearly as possible to the currency requirements for meeting the shares of the creditors, including German Reichsmark credits for deliveries in kind.

The bank will maintain a Reichsmark account at the Reichsbank credited to the Annuity Trust Account, and it will normally be employed to make payment for administrative expenses, payment for deliveries in kind and other disbursements in Germany on annuity account.

The Annuity Trust Account will bear no interest. Payments into it are to be receipted for in the currencies actually paid, but credit shall be given in their Reichsmark equivalent. The bank's receipt giving credit in Reichsmarks for payments into the account by the German Government "shall under normal operation of the Plan constitute a complete and sufficient discharge of the obligations of the German Government." If, however, transfer postponement is in effect, only the foreign exchange included in the payments made shall be receipted for as a final discharge.

The bank manages the Annuity Trust Account, expenses

being a lien against the account.[1] A first monthly charge against it is service of the Dawes loan; a second is the nonpostponable part of the annuity; a third is payment for deliveries in kind; a fourth the balance of the annuity, and the remainder is distributed to the several creditors under the provisions of the Plan. Payment of quotas is made in cash by crediting the accounts of the central banks in the Bank for International Settlements with the amount paid, notifying both the central banks and the creditor Governments of the credit thus created for the latter and obtaining the Governments' receipts therefor. The bank as trustee will manage the service of any bonds representing commercialized and mobilized shares in the annuity. Bonds required for the purpose are charged against the account of the creditor countries according to their respective interests in the issued bonds. The bank as agent will attend to the details of mobilizing any parts of the annuities upon request of the creditor Governments. In this connection, it will cooperate with central banks.

The bank may act as trustee under trust agreements or under special agreements. Arts. 22 and 24 of the statutes authorize it to "enter into agreements to act as trustees or agent in connection with international settlements, without encroachment on the obligations of the bank toward third parties." It has been generally assumed that this provision will cover most of the "out-payments" referred to in the Plan.

Directorate and Management

The board of directors may consist of 25 members during the continuance of Germany's liability to pay reparation annuities, and always shall consist of 23 members. The directorate is composed as follows:

1. The governors, or their substitute nominees of like nationality, of the central banks of Belgium, France, Germany, Great Britain, Italy, Japan and the United States, known as *ex officio* directors. In case one of these countries

[1] Trust Agreement, Art XVIII. The normal charge for management is one-tenth of 1%.

has no central bank, or if such bank is either unable or unwilling to act, the board shall nominate an appropriate financial institution to designate candidates for election.[1] The Yokohama Specie Bank acts for Japan and J. P. Morgan & Co. with the First National Banks of New York and Chicago for the United States.

2. Seven persons "representative of finance, industry and commerce" of the same nationality as and appointed by each of the former group.

3. Nine persons elected from lists submitted by the governors of the central banks of Bulgaria, Czechoslovakia, Greece, Hungary, Poland, Portugal, Rumania and Yugoslavia — being countries interested in reparation — and by the governors of the central banks of the Netherlands, Sweden and Switzerland,[2] all of which have subscribed to the bank's capital "at the time of its incorporation." The candidates are to be representatives of finance and of industry or commerce in equal numbers. The election of the nine persons from these lists is by a two-thirds majority for three-year terms.

4. "During continuance of the liability of Germany to pay reparation annuities two persons of French and German nationality respectively, representative of industry or commerce, appointed by the governors of the Bank of France and of the Reichsbank respectively, if they so desire."

Aside from governors of central banks, no official of a Government is entitled to be a director, and directors must reside in a place from which it is possible to attend meetings of the bank regularly.

The board represents the bank in its dealings with third

[1] The Secretary of State of the United States on May 16, 1929, stated that: "This Government does not desire to have any American official, directly or indirectly, participate in the collection of German reparation through the agency of this bank or otherwise." Consequently, "it will not permit [*sic*] any officials of the Federal Reserve System either to themselves serve or to select American representatives as members of the proposed international bank."

So long as that attitude is taken, the American members of the Board will be appointed by the governors of the other institutions referred to, the bank statutes stipulating that they are to be persons "not objected to by the central bank of that country," *i.e.*, the Federal Reserve System. The banking representative acting in lieu of the Federal Reserve System shall be from "any bank or banking house of widely recognized standing."

[2] The central banks mentioned are the first to participate in a group limited to 11 in number.

parties and has the exclusive right of entering into engagements on its behalf. These rights may be delegated to members of the board or of the permanent staff. The general manager, who is chief of the operating staff, is responsible to the president and is appointed by the board on his proposal. Officers of the rank of heads of departments are appointed by the board on recommendation made by the president after consultation with the general manager, who appoints the remainder of the staff.

The board determines the departmental organization. It may appoint advisory committees, who may be selected from persons not connected with the bank. The board must convene the Special Advisory Committee provided for by Part 8 (*e*) of the Young Plan so long as the Plan remains in force, upon receipt of notice from the German Government of its declaration of a postponement of transfer.

The financial year of the bank begins on April 1, the first financial period ending March 31, 1931. Provision is made for publishing an annual report, profit and loss accounts and balance sheets and for auditing.

Distribution of Profits

The distribution of the net profits is set forth in the statutes in detail and shows an intimate connection with the payment of reparation. The distribution for the first year, turned into percentages of the net profits, will be allocated as follows:

a. 5% to the legal reserve;

b. 15% (6% of paid-up capital) to cumulative dividends;

c. 15%, or a maximum of 16%, to provide a noncumulative 6% additional share dividend;

d. 32.5% (50% of the remaining net profits[1]) to the general reserve fund;

[1] This allocation is to continue until the general reserve fund equals the paid-up capital. Thereafter, 40% of the net profits at this point are to be applied to make the general reserve fund double the paid-up capital. Following that, 30%, then 20%, and next 10% will be successively applied to make the general reserve fund equal five times the paid-up capital. Thereafter the general reserve fund shall be increased by 5% of the net profits available at this point of distribution. The percentages shall be reapplied to restore the position in case of losses or increase of paid-up capital.]

e. The remaining 32.5% is to be paid into two special funds which are to be employed as follows:

i. 75% of this remainder (24.375% of the total) is to be distributed annually to such Governments or central banks of the creditor countries or of Germany as have maintained time deposits of a size determined by the bank's directors, withdrawable in not less than five years. This provision may prove to be important in the future handling of reparation payments. It may afford creditor Governments an option of leaving their annuities on deposit in the bank, and it will facilitate Germany's ability to collect funds against the payment of future annuities, if that should prove feasible.

ii. The remaining 25% of *e* (8.125% of the total net profits) is "to be used to aid Germany in paying the last 22 annuities" provided the German Government makes a long-term deposit of a minimum sum of 400,000,000 Reichsmarks. This fund, the amount and contribution to which may be proportionately reduced, shall carry compound interest at the maximum current rate of the bank. If the original fund, increased by profits and interest, should not be required by Germany for out-payments in the last 22 years, the excess will be distributed among the creditor Governments. By the concurrent memorandum on out-payments of June 7, 1929, any remission of war debt during the first 37 years will serve to increase this fund. In that period three-twelfths of any net relief will be paid by the creditors into the bank for accumulation to assist Germany toward meeting the final 22 years' payments. In the last 22 years any sum gained from the remission of out-payments is to be handled in accordance with the concurrent memorandum.

Disputes arising between the bank and any central bank or other financial institution shall be referred to the Tribunal of Interpretation established under the London

agreement of August 30, 1924,[1] as reconstituted by the agreement of January 20, 1930 (Art. XV). This tribunal was established to interpret the Dawes Plan with regard to disputes between the Reparation Commission and the German Government. If the disputants fail to define the question or one of them should fail to appear, the statutes of the bank give the Interpretation Tribunal jurisdiction over defining the question and authority to render an award in default. In all other disputes the bank may proceed or be proceeded against in any court of competent jurisdiction.

Amendments to the statutes, with certain exceptions, are to be proposed by a two-thirds majority of the board and adopted by an absolute majority. However, amendments relating to the seat, objects, reparation functions, capital, share ownership, operation in countries, relation of central banks to national operations, prohibited functions, composition of the board, general meetings, distribution of profits, settlement of disputes, and to amending the statute must be adopted by a two-thirds majority of the board, approved by a majority of the general meeting, and enacted in a law supplementary to the bank's charter.

Instrument of International Cooperation

It can readily be perceived from this summary that the bank would not exist were it not for its relation to the handling of reparation. On the other hand, its functions are banking functions, though few, if any, of these will not be exercised in the development of its duties respecting reparation. The statutes do not in words make the distinction which was made in the report between essential or obligatory functions and the auxiliary or permissive functions, which evolve more indirectly from the character of the annuities.

Before the World War, the cooperation which took place between the central banks of the different countries was left solely to private initiative. In the days of postwar

[1] *Reparation*, Part VI, p. 250.

financial chaos, the necessity for such action became vividly apparent, and the Genoa conference in 1922 recommended a meeting of banks of issue,[1] but the suggestion for various reasons was never acted upon. In recent years considerable cooperation has been achieved, largely through the leadership of several outstanding personalities. There has been a growing consciousness that such cooperation should not in the long run be dependent upon individual initiative or upon chance, but should be organized. Just what tasks are to be accomplished through the cooperation afforded by the existence of the Bank for International Settlements in the next decade or two no one can predict. If the central banks desire, some international transactions can well be cleared through an international agency, and in this way gold movements could be lessened. Whatever definite developments may take place, it seems clear that international financial machinery available for any emergency that may arise and for the gradual development of methods of international cooperation will be found useful.

[1] Resolution 3 of the Financial Committee proposed developing "continuous cooperation among central banks of issue or banks regulating credit policy in the several countries" so as to "provide opportunities of coordinating their policy, without hampering the freedom of the several banks." Resolution 9 suggested an international convention "to centralize and coordinate the demand for gold." (*Papers relating to International Economic Conference, Geneva, April–May, 1922*, p. 60, 61. British Parliamentary Papers, Cmd. 1667.)

V. COMMERCIALIZATION AND MOBILIZATION

When the system of reparation was first developed in Part VIII of the treaty of Versailles, the debt was to be represented by several series of bonds, all of which were to carry an amortization charge. Annex II, 12, (*d*) of that part of the treaty contemplates that the German evidences of indebtedness might be "disposed of outright, not by way of pledge, to persons other than the several Governments in whose favor Germany's original reparation indebtedness was created." In this event, the German indebtedness toward the creditor state is extinguished, "and the obligation of Germany in respect of such bonds shall be confined to her liabilities to the holders of the bonds, as expressed upon their face."

This possibility proved very attractive to the French mind. The French people are great investors in Government securities, and the French Government has never lost sight of the advantage of reducing the national indebtedness by selling German reparation bonds to the French investor, using the proceeds to retire national debt, or of exchanging reparation bonds for the national *rentes*. Though no other country is so much interested in this possibility, all those concerned recognized that such treatment of reparation would represent a final evidence of its transformation into an exclusively economic transaction.

The Committee of Experts, having provided machinery in the Bank for International Settlements "for the removal of the reparation obligation from the political to the financial sphere," continued with a study of the procedure " necessary in order to assimilate this obligation as closely as possible to an ordinary commercial obligation [1] ('commercialization')." This is provided for in what the Experts call mobilization,[1] that is, the use of its reparation credit

[1] The terms "commercialization" and "mobilization" are used by the Committee of Experts in the European sense and are fully explained by them in the Report, pars. 148 and 149. The terms refer to two stages of the process. "Commercialization"

by a state to raise money by the issue to the public of bonds representing the capitalization of the unconditional annuity.

It was no part of the functions of the Committee of Experts to determine the time when such issues should be placed on markets, nor was it one of their functions to determine in what form bonds should be issued. There are three possible forms:

(1) An issue in the interest of all or several creditor Governments in several money markets;

(2) An issue by one Government on several markets;

(3) An internal issue by one Government on its own market with a view to converting its own Government debt.

The Committee of Experts regarded it as the province of the Bank for International Settlements to advise upon such matters and itself lays down a framework within which the first and third forms of issue might take place (Annex III), which is elaborated technically in Art. XII of the Trust Agreement. No provision is made for the second possibility.

Some of this framework is essential to the Plan as a whole in any case. Germany is to deliver to the Bank for International Settlements, as trustee of the creditor states, a certificate of indebtedness representative of the annuities fixed by the Plan. Attached to the certificate are coupons representing each annuity. Each of the coupons is in two parts. The first part represents the nonpostponable portion of the annuity and corresponds "to the portion of Germany's indebtedness which is mobilizable;" the second part of each coupon represents the postponable portion of the annuity, which is not contemplated as mobilizable. Aside from the postponement feature, both parts of the coupons enjoy equal rights, except that the nonpostponable coupon enjoys priority of payment.

refers to the transforming of the intergovernmental debt into a technical form corresponding to ordinary bond issues placed on international markets. "Mobilization" refers to the raising of money by issuing to the public bonds representing the capitalization of the "commercialized" portion of the reparation annuity.

The Bank for International Settlements, as trustee for the creditors, decides whether mobilization is opportune. It is to do this on the request of creditor Governments. The bank, having determined that "mobilization" is opportune, may require the German Government to create issuable bonds representing the capitalization of any part of the nonpostponable portion of the annuity.[1] If, however, a Government desires to undertake conversion operations of its own debt by an internal issue of German bonds, the bank is obliged to accede to its request, and Germany also is obliged to issue the bonds required. The bonds issued are to be the obligation of the German Reich, serviced by the nonpostponable portion of the annuity, and guaranteed by the general revenues of the Reich. They "constitute a final, absolute and unconditional international obligation in the ordinary financial sense of the word." [2]

Collateral guaranties are provided, the positive one of which is the certificate of liability to be deposited with the Bank for International Settlements by the German Railway Company and which covers the tax to which it is to be subjected.[3]

A second collateral guaranty is a negative pledge in the form of the assignment of customs and certain consumption tax revenues of the Reich for the service of the indebtedness payable from the Reich budget and of negotiable bonds issued in exchange for them. The German Government agrees that the assigned revenues shall amount to "150% of the highest budgetary contribution payable by Germany" under the Plan [4] (that is, 3,643,200,000 Reichsmarks) and that it will not pledge them for any other loan or credit without the consent of the bank. If the total yield should fall below that percentage, the bank may require the assignment of additional revenues to restore the yield to the stipulated proportion.

[1] The authority of the bank to act as agent for such operations is exclusive (Trust Agreement, Art. XII).

[2] Annex III, V, par. 137.

[3] Trust Agreement, Art. II, *C*, and Plan, Annex III, III, par. 128.

[4] This is reached in the fiscal year 1965–66.

Bonds issued against the nonpostponable annuity may have their value expressed in several currencies or in a single currency with the stipulation that the principal of any bond issued in a particular market shall be payable only in its currency at the equivalent of the gold value. A specification of the currency is to be made by the Bank for International Settlements, taking into account the desires of the issuing bankers. After 10 years, it will be possible to issue bonds payable in different currencies at the option of the bearer, so that there is a prospect for the future of the issuance of a form of international bond.

The bank will inform creditor Governments when, in its opinion, the issue of bonds is practicable and will fix the minimum price of issue. The Governments may issue their share of bonds in their own countries, or they may transfer their quotas to bankers in other countries, or refuse to allow their quota to be created. The minimum conditions fixed by the bank shall apply in all cases. In the case of conversion bonds, which a creditor Government may issue at its own discretion on its own market, no minimum price is to be fixed, and the Government will receive whatever price it can.[1]

All these bonds enjoy a genuine priority in that they are based upon the mobilizable portion of the annuity, which is not subject to postponement. As a consequence, the annuity coupons representing it are completely paid before moneys to meet the mobilizable portions of the coupons can be transferred.[2] The payment of the coupons is made to the bank in foreign currencies by the Reich on its own responsibility. Bonds can be created against the nonmobilizable portion of the annuity coupons, even for internal issue by a creditor, only with the consent of the German Government.

As indicated above, France has been anxious to mobilize its reparation debt. Emile Moreau and Jean Parmentier, the French experts, in their report to the premier of June 13

[1] Formal details in Trust Agreement, Art. XII.

[2] Trust Agreement, Art. IV, (*c*).

said: "The entire effort of the French experts was centered on the recognition of our right to mobilize the part of the annuity which exceeds the amount of our external payments and on the practical means of arranging for it." The French experts in their report state that of the average annuity coming to France, 1,046,500,000 Reichsmarks, the part absorbed by the external debts will attain an average of 626,500,000 Reichsmarks, leaving a net balance of 422,000,000 Reichsmarks to meet reparation proper. This balance, payable for 37 years at 5½% plus amortization, is given a present value of 6,945,000,000 Reichsmarks, or about 42,000,000,000 francs. Restoration of the devastated regions has cost France 102,000,000,000 francs. The provisions for mobilization in the Plan will apply to the net balance of 420,000,000 Reichsmarks. "Thanks to the mobilizable provision," say the experts, "the amortization of the debt contracted by France, in lieu of and in the place of Germany, will be accelerated, and we shall find ourselves profiting from a true priority in favor of our material reparations." The French experts contemplate that a total sum of 500,000,000 Reichsmarks may be used for this purpose. The transformation of a German political debt toward the French state into a commercial debt toward the holders of bonds "will be facilitated by our recognized ability to proceed to the issuance on our own market of German bonds in exchange for French rentes or treasury notes, the cancellation of which will thereby be assured." [1]

Roughly speaking, 500,000,000 Reichsmarks will service a total of nearly 7,750,000,000 Reichsmarks loan capital at 5½% interest and 1% sinking fund. That would relieve France of carrying a debt burden of about 45,000,000,000 francs.

The Hague conference decided [2] upon a first mobilization amounting to $300,000,000 (1,260,000,000 Reichs-

[1] A complete English translation of the report of the French experts is printed in *European Economic and Political Survey*, IV, p. 587.

[2] Final Protocol, Annex VII.

marks) net, of which one-third will go to Germany for productive postal and railroad purposes. The division of the $200,000,000 (840,000,000 Reichsmarks) against the nonpostponable portion of the annuity was not allocated among the creditors at The Hague.

The arrangement to this effect contemplates the emission of the issue before October 1, 1930, before which the German Government will issue no long-term external loan. If issuance of the mobilizable loan is delayed, Germany will refrain from entering the market up to March 31, 1931. The mobilizable loan may be participated in by Germans and shall be arranged by the Bank for International Settlements and serviced by it.

An adjustment was required regarding the match monopoly loan contract for $125,000,000 signed on October 26, 1929, with the Swedish Match Company of Stockholm and Kreuger & Toll of Amsterdam. Arrangements with these concerns described in the agreement were to the effect that the above declaration did not apply to this loan which, however, would not be offered for public subscription before June 30, 1933. Moreover, it "may not involve any discrimination to the detriment of the unconditional annuities."

VI. LIQUIDATION OF THE PAST

The Young Committee of Experts found a considerable body of unliquidated problems still existing in the reparation system. The committee recommended the "clearing up of these questions in a broad spirit of mutual concession." They defined the closing of the financial questions raised by the war and the subsequent treaty of peace as "a liquidation which alone can assure the definite return of Europe to normal financial and economic conditions."

The committee recognized that the final decisions on these questions lay with the Governments, but was able to point out that in several respects the Plan, which was to be regarded "as an indivisible whole," necessarily involved this liquidation, which was not to affect the annuities of the Plan.[1]

Perhaps the most important of the past questions is the closing of pre-Dawes accounts. In this connection, it should be understood that, until the payment of the first Dawes annuity began on September 1, 1924, all payments by Germany and receipts by the creditors were unilateral book entries at the office of the Reparation Commission and were to a large extent in dispute. The system originally contemplated was that German bonds should be canceled by German payments. The bonds provided for in Part VIII, Annex II, par. 12, of the treaty of Versailles were never formally issued. Substituted for them as a representation of Germany's debt were the A, B and C bonds of the Schedule of Payments of May 5, 1921.

The Reparation Commission as of November 30, 1925, recognized payments by Germany in the period before the Dawes Plan entered into effect of 8,821,657,000 gold marks as follows:

	Gold marks
Value of ceded properties	2,553,905,000
Years 1920 and 1921	3,970,835,000
Year 1922	1,402,686,000
Ruhr period, January 11, 1923–August 31, 1924	894,231,000

[1] Report, Annex VII, par. 193.

On December 18, 1925, the Reparation Commission determined the accounts of the Ruhr period in accordance with Art. 12 of the agreement signed at Paris January 14, 1925,[1] and the figure for that period in the above list may be regarded as representing a closed account. The other amounts contained many provisional items, several important categories of which were disputed by Germany. In 1921 and 1922 Germany gave details as to these claims, which have since been in abeyance. In some instances wide discrepancies existed: German public property in ceded territories, which was given a value of 2,553,905,000 gold marks by the Reparation Commission, was claimed by Germany to be valued at 6,500,000,000. The Germans claimed on May 1, 1921, a credit of 11,700,000,000 marks for property liquidated abroad. The Reparation Commission gave no credit under this heading, one reason being that the creditors had not reported to it concerning the value of the properties in question. Included in this property abroad is the value of the privately owned submarine cables, which have neither been divided nor appraised with a view to granting an appropriate credit to Germany.[2] Among the outstanding accounts are those represented by the holdings of German nationals in foreign countries and present mandated territories. The titles to these property holdings reverted to the victors, and the German Government was under obligation to reimburse its nationals. As the properties were disposed of, it fell to the benefiting Governments to enter the amount received to the credit of Germany. Meantime, Germany had made compensation to its nationals in fulfilment of their claims for this form of expropriation only respecting the smaller amounts.[3] There were inevitable discrepancies to be adjusted in the accounts as a result of this disconnected procedure.

[1] *Reparation*, Part VI, p. 285.

[2] The United States claims an interest in them.

[3] Claims not exceeding 5,000 Reichsmarks were paid in full; those above that amount were compensated on a scale from 50 to 2½% of their value in inverse ratio to their size. Austria and Hungary issued serial bonds in full compensation of claims.

Pre-Dawes Accounts Obsolete

The Committee of Experts understand that their proposal "will render obsolete the accounts between the Reparation Commission and Germany relating to transactions prior to the period of the Dawes Plan, together with all accounts involving credits against its original capital debt." They thus contemplated an obliteration of the complicated and disputed claims which have been slightly indicated above. The experts believed that the definite character of their plan requires such action. Recognizing that the decision was solely up to the Governments, "they consider that the creditor Governments are fully entitled to expect that Germany should waive [its unsettled claims] in consideration of the consolidation of the creditors' claims at a reduced figure." The creditors tacitly acquiesced in this recommendation, thus avoiding consideration of matters which would have been embarrassing.

The understanding of the committee that its settlement would render "obsolete . . . all accounts involving credits against the original capital debt" forecast the final disappearance of the A, B and C bonds of the 1921 Schedule of Payments, at least so far as Germany is concerned. It was originally contemplated that those bonds should be canceled by German payments. No such cancellations took place, and the published records show but one effort to operate those bond issues. A condensed statement of December 31, 1922,[1] shows 120,000 gold marks of Series A bonds subtracted from the debt "due to be amortized as at May 1, 1922." The amortization was not effected and, as a consequence, no retirement of bonds was ever made, and apparently no serious consideration was given to the application of Dawes annuity receipts to their service. Series A bonds were issued to the Reparation Commission on July 1, 1921, and Series B bonds on November 1, 1921, with interest and amortization coupons attached. They remained intact. Series C bonds of a nominal value of

[1] *Statement of Germany's Obligations*, Reparation Commission, IV, p. 21.

82,000,000,000 gold marks were delivered to the Reparation Commission on November 1, 1921, without coupons attached.[1] When all accounts for the pre-Dawes period were closed by being called obsolete and the certificate of indebtedness provided for in Annex III of the new Plan was turned over to the Bank for International Settlements, these three series of bonds became simply historical mementos.

One phase of the liquidation called forth no comment from the Committee of Experts. By Art. 296 of the treaty of Versailles, outstanding pecuniary obligations between German nationals and those of the opposing states were to be settled through clearing offices set up by the interested countries. By Art. 297, detailed provisions were made for the adjudication of questions of private property, rights and interests, the liquidation of which was to be made through the clearing offices or submitted to mixed arbitral tribunals. The magnitude of these claims was great, but their settlement had progressed to such a point that the Committee of Experts did not see that the final winding up of the system required any particular recommendations. Under Art. 296, the allied claims notified numbered more than 450,000, of which over 368,000 had been disposed of by March 31, 1928; while German claims numbered over 680,000, of which more than 530,000 had been disposed of.[2] Under Art. 297, about the same proportion

[1] By various interallied agreements charges against the C bonds on German, Austrian and Hungarian reparation accounts were indicated. The experts did not insist on disturbing such agreements, but the creditors disregarded the proffered opportunity to revert to past practices.

[2] On October 1, 1928, only 459 British claims were outstanding out of an original total of 101,555 worth £76,225,153, and 739 German claims out of a total of 266,151 worth £63,104,363. The other claims were Belgian, French, Greek, Italian and Siamese.

On the same date under Art. 248 of the treaty of St. Germain-en-Laye there were 148 British claims against Austria outstanding out of an original total of 16,721 worth £14,219,562, and 56 Austrian claims against the British Empire out of 10,553 worth £3,558,851. The bulk of claims under the article were, however, not British.

On the same date under Art. 231 of the treaty of Trianon 362 British claims were outstanding against Hungary out of an original total of 12,558 worth £6,947,788, and 38 Hungarian claims against the British Empire out of a total of 1,003 worth £355,936. The bulk of the claims under the article were, however, not British.

Debt claims under Art. 176 of the treaty of Neuilly sur Seine by or against Bulgaria were originally small in amount and concerned Bulgaria's nearer neighbors for the most part.

For later details see *Ninth Annual Report of the Controller of the Clearing Office . . .* (London, H. M. Stationery Office, 1930).

of settlement maintained.[1] Both the clearing offices and the mixed arbitral tribunals were so close to the exhaustion of their work that the experts did not need to provide for discontinuance of payments.

Any adjustment of accounts between debtor and creditor involved in their winding up was included in the consolidation of the claims contemplated by the Committee of Experts.

Dissolution of Joint Liability

The Committee of Experts made an important pronouncement in stating that "the acceptance of this plan necessarily involves the dissolution of the joint liability of Germany on the one side with Austria, Hungary and Bulgaria on the other side for reparation." By the treaties of peace with Germany, Austria and Hungary, each of them accepts the responsibility of itself and its allies "for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war." Bulgaria recognized that "she ought to make complete reparation" for the "losses and sacrifices of all kinds" which she had caused "by joining in the war of aggression which Germany and Austria-Hungary waged against the Allied and Associated Powers."

The joint liability thus created by the four treaties at-

[1] On October 1, 1928, under Art. 297 of the treaty of Versailles a total of 380,892 British and German claims for £205,008,847 had been dealt with by the Clearing Office and only 255 for £4,256,529 were outstanding. The British-German Mixed Arbitral Tribunal had pending 1,198 cases, and had disposed of 1,535 cases in the previous year. Conditions respecting Belgium and France under the article were comparable. Siamese amounts were closed, but Greece and Italy made no report.

On the same date under Art. 249 of the treaty of St. Germain-en-Laye 27,413 Austrian and British claims for £25,972,411 had been handled and 23 were outstanding. The Anglo-Austrian Mixed Arbitral Tribunal had 21 cases pending. The Austrian situation toward other states was less satisfactory.

On the same date under Art. 232 of the treaty of Trianon 13,219 British and Hungarian claims for £7,775,153 had been dealt with and only two were outstanding. The Austro-Hungarian Mixed Arbitral Tribunal had 77 cases pending. The Hungarian situation toward other states was less satisfactory.

On the same date under Art. 177 of the treaty of Neuilly sur Seine all British-Hungarian claims were disposed of. The Hungarian situation toward other states respecting claims under Art. 177 was, however, more complicated and less advanced.

Decisions of some 50 tribunals are printed in *Recueil des décisions des Tribunaux Arbitraux mixtes*, I– (Paris, 1922–).

tracted practically no public attention in the development of the reparation problem.

Art. 121 of the treaty of Neuilly sur Seine fixed the sum to be paid by Bulgaria at 2,250,000,000 gold francs to be amortized in 37 years from January 1, 1921. By a protocol of March 21, 1923,[1] a schedule of payments of 550,000,000 gold francs at 5% interest [2] extending over a period of 60 years was signed. On March 28, 1923, another protocol settled Bulgarian occupation costs at 25,000,000 gold francs, payable in 10 years with interest at 5%.[3]

In connection with Austrian reconstruction, the Reparation Commission in February, 1923, excepted Austrian public revenues and receipts from all reparation charges for a period of 20 years in favor of the Austrian reconstruction and relief credit indebtedness.[4] On February 21, 1924, the Reparation Commission [5] excepted specified Hungarian revenues from reparation liability and laid down a schedule of semiannual payments on reparation account amounting to 200,000,000 gold crowns until December 31, 1943. Austro-Hungarian and Austrian and Hungarian prewar secured debts were identified [6] by the Reparation Commission as amounting to about 3,500,000,000 prewar [7] crowns and the Austrian and Hungarian unsecured debts to about 14,500,000,000 paper crowns. These debts are distributable among the succession states and, as a con-

[1] Great Britain *Treaty Series* No. 1, 1925, Cmd. 2303.

[2] "Instalment 'B' shall constitute the remainder of the debt," and was not to be claimed before April 1, 1953, without interest.

[3] Great Britain *Treaty Series* No. 2, 1925, Cmd. 2304.

[4] A recommendation on relief charges to the same effect was accepted by the Governments concerned, *The Financial Reconstruction of Austria. General Survey and Principal Documents*, p. 151–152 (League of Nations, C. 568. M. 232. 1926. II).

[5] *The Financial Reconstruction of Hungary. General Survey and Principal Documents*, p. 197 (League of Nations, C. 583. M. 221. 1926. II. 54).

[6] Reparation Commission, *Official Documents*, VII and XIII. The distribution was regulated by the Innsbruck protocol of June 29, 1923. See the treaty of St. Germain-en-Laye, Arts. 41, 52, 58, 61, 203 and 208 and the treaty of Trianon, Arts. 44, 47, 52, 186 and 191.

[7] The Austro-Hungarian prewar or gold crown was worth 20.26 cents, or 4.94 to the dollar.

sequence, Czechoslovakia, Poland, Rumania, Yugoslavia and Italy are due to assume considerable portions of them.[1]

By Art. 11 of an agreement between the finance ministers of the allied states signed at Paris March 11, 1922, the Reparation Commission was to fix the reparation debts of Austria and Hungary at not less than the total value of the properties transferred by them "under the treaties of St. Germain and Trianon plus six milliards of gold marks." On the creation of Series C bonds of the 1921 Schedule of Payments, bonds to the amount fixed were to be allocated to these debts.[2] As the matter then stood, bonds issued by Germany were to be allocated for payment by the other debtor states.

The Committee of Experts recommended — or rather stated — that its plan "necessarily involves the dissolution" of this joint liability. They added that it "therefore finally abolishes every obligation present or future in either direction which may result between these powers from this joint liability." The dissolution of the joint liability was arranged for as a continuation of work already done respecting those minor reparation debts by the Reparation Commission.

The Committee on Liquidation of the Past[3] advised leniency toward Austria. The conference at The Hague in January maintained the moratorium running until 1943 and annulled the reparation lien on Austrian property and

[1] The following were the quotas calculated by the Reparation Commission in January, 1925 (*Official Documents*, VII, p. 18, 19):

	Austrian Debt (Per Cent)	Hungarian Debt (Per Cent)
Austria	36.827	1.716
Czechoslovakia	41.700	17.384
Hungary	–	49.629
Italy	4.087	.812
Poland	13.733	–
Rumania	1.610	23.659
Yugoslavia	2.043	6.800

[2] *Reparation*, Part I, p. 19, 20.

[3] The Committee on Liquidation of the Past was appointed by the president of the Hague Conference and met at Paris, September 16–November 22, 1929, and consisted of representatives of Germany, Belgium, British Empire, France, Greece, Italy, Japan, Poland, Portugal, Rumania and Czechoslovakia.

revenues. The effect was to "free Austria of all financial obligations resulting from the treaties of peace." Administrative debts and special credits against the country were abrogated. Subsequent arrangements, including the reconstruction loan and the agreements with the United States postponing the payment of obligations, maintain their validity.

The Bulgarian figure was fixed by the Committee on Liquidation of the Past, appointed by the president of the Hague conference, at 15,000,000 gold francs payable annually for 37 years. On the announcement of this figure in Sofia about November 19, public demonstrations of protest occurred. As a consequence, a diplomatic offer of annuities of 12,500,000 gold francs was made, the Bulgarian Government holding at the time that the national capacity to pay did not exceed 10,000,000. The settlement at The Hague in January arranged a schedule of 5,000,000 gold francs payable before April 1, 1930, 10,000,000 gold francs annuities from April 1, 1930, to March 31, 1940, of 11,500,000 from 1940–1950 and of 12,515,238 from 1950–1966. Annuities are payable half-yearly on March 31 and September 30. The total is 420,243,000 gold francs.

The Bulgarian payments are distributed as follows: Payment of 5,000,000 gold francs on April 1, 1930, and current undistributed assets, to Greece; payments, 1930–43, Greece, 76.73%; Rumania, 13%; Yugoslavia, 5%; Czechoslovakia, 1%; under Spa agreement, 4.27%. Provision for distribution of payments 1944–66 is not specifically made by the arrangement of January 20, 1930, between the creditors.[1] In addition, 110,000,000 lei to Rumania for property liquidation, paid in 1930.

Hungarian indebtedness created a complicated argument. Hungary claimed that property ceded by it amounted to 12,000,000,000 pengös,[2] while other estimates were only one-third of that sum. Hungary also held that the allocation of 45.7% of the Austro-Hungarian prewar debt to the

[1] Arts. III, IV, *Agreements*, p. 171.

[2] The pengö is 17.49 cents, 5.72 to the dollar.

country was unfair, in view of the fact that it received only 28% of the territory and 36% of the population of the former monarchy. The attempted settlement was for a considerable time stalled on account of the introduction of the question of the Hungarian optants in Transylvania. This complicated Hungarian-Rumanian question had been pending before the League of Nations for several years, having been referred to its Council after a decision of the Mixed Arbitral Tribunal established under the treaty of Trianon was contested. Hungary opposed its being considered in connection with the reparation settlement. Hungary also defended its rights under Art. 250 of the treaty of Trianon, which had the effect of securing to the country restitution of property, rights and interests seized by Rumania in its post armistice invasion, and preventing the retention or liquidation of private Hungarian property in ceded territory.[1]

The settlement of Hungarian reparation was the last problem to be solved at the second session of the Hague conference. The Reparation Commission schedule of February 21, 1924, was maintained. By this Hungary pays 200,000,000 gold crowns from January 1, 1924, to December 31, 1943, the payment for the calendar year 1930 being 7,000,000 gold crowns and the annuity rising to 14,000,000 in the last two years. From 1944 to 1966 a constant annuity of 13,500,000 gold crowns will be paid for claims other than reparation. Hungarian payments in liquidation of the war are, therefore, fixed at:

	Gold Crowns
Reparation, 1924–1943	200,000,000
Payments, 1944–1966 (13,500,000 gold crowns for 22 years)	297,000,000

The settlement of claims arising out of the cessions of territory by Hungary to the succession states was effected by an agreement responding to the desire of all interested parties for conciliation and peace. Hungary, Czechoslovakia, Rumania and Yugoslavia all recorded that they

[1] *Reparation*, Part I, p. 18.

maintained their legal points of view respecting Art. 250. But by employing arbitration and by creating two funds they found means to effect a complete settlement.

The Mixed Arbitral Tribunals suspend their activities for six months to allow an opportunity for direct settlement of claims. After that period, outstanding cases under Art. 250 of the treaty of Trianon will be heard by the three judges of the tribunals reinforced by two neutral judges nominated by the Permanent Court of International Justice, to which such cases can be appealed. The latter provision had been a Hungarian contention in connection with the case of the optants in Transylvania from the beginning of that dispute. This scheme covers all questions of Hungarian optants under the agrarian reform programs of the succession states.

The claims of Hungarian nationals against the creditor countries are liquidated by special funds made up from a variety of sources. Fund A is devoted to the agrarian claims and will amount to 219,500,000 gold crowns built up from contributions by states and persons benefiting from the reallocations of land settled under it. Through 1943, Belgium, France, Great Britain, Italy, Japan and Portugal contribute toward the capital up to an annual total of 3,600,000[1] gold crowns. The French, Italian and British contributions will bear a ratio of 40–40–20 to each other. Contributions by Czechoslovakia, Rumania and Yugoslavia to the fund are absolute, and the French, British and Italian quotas will be proportionately reduced in case there is a surplus. For the 23 years (1944–66) Czechoslovakia, Rumania and Yugoslavia contribute 6,100,000 gold crowns. All awards will be against the fund rather than any state. The managing committee will consist of four appointees of Hungary and three of the Financial Committee of the League of Nations.

Fund B provides for the settlement of the nonagrarian claims, the properties of the Hapsburg family, the church foundations, organizations, industrial and commercial

[1] But see final text of April 28, 1930, *L'Europe nouvelle*, May 3, 1930, p. 700 at 703.

companies, etc. Its capital is to be 100,000,000 gold crowns, drawn primarily from contributions by the succession [1] and other states benefiting by the allocations of property. If the contributions are inadequate, a total amount of 7,400,000 gold crowns from the annuities payable by Hungary from 1944–66 may be used to complete it. It will be administered by a committee appointed by France, Great Britain, Italy, Czechoslovakia, Rumania and Yugoslavia. For the 13 years (1931–43) Great Britain, France and Italy contribute 3,000,000 gold crowns on a 20–40–40 ratio.

The Hungarian payments up to 1943 are distributable as follows: Current assets to June 30, 1930, to Yugoslavia; payments, July 1, 1930, to December 31, 1943, Greece, 76.73%; Rumania, 13%; Yugoslavia, 2%; Czechoslovakia, 1%; under Spa agreement, 7.27%.[2] From 1944 to 1966, there is allocated 7,400,000 gold crowns of the Hungarian payments to Fund B. The remainder is also devoted to special claims; during these 23 years Czechoslovakia, Rumania and Yugoslavia pay an equivalent amount, 6,100,000 gold crowns, into the Agrarian Fund.[3]

The handling of the liberation debt of Czechoslovakia and the other succession states has been distributed on the basis of balance between debtor and creditor. Funds were payable by the succession states into the account of the allies and distributed as reparation among the principal allied and the succession states. The state property taken over was distributed as to one-half among Belgium, France, Great Britain, Italy and Japan in the proportion of the Spa percentages. The other half was distributable in the following percentages: Italy, 60%; Greece, 25%; Rumania, 20%; Yugoslavia, 15%. The state properties involved were very much reduced in the final accounts. The following table shows their estimated values on being taken over and the payments due from the recipients:

[1] The succession states are those which received territory of the former Austro-Hungarian monarchy. They are Czechoslovakia, Italy, Poland, Rumania and Yugoslavia, but Poland has been very little affected by the problems involved.

[2] *Agreements*, p. 171.

[3] *Ibid.*, p. 165, 163, 161.

	Original Value	Due to Funds
Czechoslovakia	3,889,000,000 gold crowns	750,000,000 gold crowns
Poland . .	3,143,000,000 gold crowns	225,495,000 gold francs
Rumania . .	1,053,000,000 gold crowns	235,140,000 gold francs
Yugoslavia .	1,890,000,000 gold crowns	148,045,000 gold francs
Italy . .	838,000,000 gold crowns	59,252,000 gold francs
	10,813,000,000	– –

Art. 58 of the treaty of peace with Austria and Art. 52 of that with Hungary provide that "the proportion and nature of the financial obligations of the former Austrian Empire (and Hungary) which the Czechoslovak State will have to assume on account of the territory placed under its sovereignty will be determined in accordance with" the financial clauses (Arts. 203 and 186 of the respective treaties). This so-called "liberation debt" was due to Austria and Hungary or to their creditors. It was the subject of an agreement at The Hague which fixed it in annuities of 10,000,000 Reichsmarks for 37 years. This includes definite settlement of obligations toward France and Italy, and seals the transfer of some 4,000,000,000 prewar crowns, worth of state property. Czechoslovakia, however, is awarded 1% of the receipts from Bulgarian and Hungarian reparation.

The Czechoslovak annual payment for 36 years is distributed as follows:[1]

	Gold Marks
France	3,187,854
Great Britain	1,384,519
Italy	3,146,632
Belgium	418,816
Japan	51,920
Portugal	51,920
Greece	1,758,339

[1] *Agreements*, p. 170.

The other indebtedness of similar character due from Italy, Poland, Rumania and Yugoslavia established by the treaties of peace and the agreements of September 10 and December 6, 1929,[1] was in the end fairly small on balance. The amounts are accounted for in the British-Italian adjustment of August and the Hungarian funds as established in January.

Unliquidated Property

When the treaty of Versailles was made, the victors were interested in depriving Germany of any rights and interests which it or its nationals had acquired in Russia, China, Turkey, Austria, Hungary and Bulgaria. As a consequence, Art. 260 of the treaty of Versailles required the transfer of all properties situated in those countries to the Reparation Commission. Any liquidation of such properties not concluded was stopped on the recommendation of the Committee of Experts. In continuation of the same policy, Germany undertook by Art. 261 of the treaty to transfer to the Allied and Associated Powers any claims which it might have to the payment or repayment by the Governments of Austria, Hungary, Bulgaria or Turkey, with all of which the Berlin Government had been during the war in close financial relations. The Committee of Experts recommended the discontinuance of those claims. The creditor states abstain from recovering any such credits from Germany and Germany renounces any net balance which might be due.

The experts recommended that the Governments, on accepting the report, make no further use "of their right to seize, retain and liquidate property rights and interests of German nationals or companies controlled by them." As a considerable amount of such property had been liquidated, put into liquid form, or finally disposed of, the experts recommended that all outstanding questions of

[1] See p. 64.

that type "should be definitely cleared up within one year after the coming into force of this plan."

This recommendation was carried out by a series of conventions with Germany which are enumerated in the final act. These include:[1]

Australia — Convention, The Hague, January 17, 1930;

Belgium — Convention on Belgian marks, Brussels, July 13, 1929;

Belgium — Convention, Brussels, July 13, 1929;

Canada — Convention, The Hague, January 14, 1930;

France — Convention, Paris, December 31, 1929;

Great Britain — Convention, London, December 28, 1929;

New Zealand — Convention, The Hague, January 17, 1930;

Poland — Convention, Warsaw, October 31, 1929.

By the convention of July 13, 1929, the Belgian Government renounced its right to make use from that date of Arts. 121 and 297(*b*) of the treaty of Versailles to seize, retain or liquidate the property, rights and interests of German nationals, companies or organizations, whether German or controlled by Germans, situated in Belgium, the Kongo, or territory under administration by mandate, in so far as they had not already been dealt with. Assets or credits in process of liquidation of several specified types were not affected, but all other properties in the possession of the Belgian Government were to be restored to the proper persons, together with all accruals thereto from June 7, 1929. Detailed arrangements for various types of property are set forth, and all disputes as to credits are settled by the Belgo-German Mixed Arbitral Tribunal. Differences as to the interpretation or application of the agreement are to be settled by a tribunal composed of a national of each party and a president chosen by both parties. The agreement enters into force simultaneously with the Young Plan.

The Polish-German agreement of October 31, 1929, canceled all counter claims to the liquidation of properties.

[1] Texts in *Entwürfe zu den Gesetzen*, fünfter Teil.

Negotiations were begun to abolish the German-Polish Mixed Arbitral Tribunal, which had been trying such cases. Future cases involving nationality will be left to the Council of the League of Nations. The Polish Government will not make use of its right to purchase farms belonging to German colonists and passing to other owners by inheritance in the first and second degrees, unless the heirs are condemned criminals. About 12,000 properties are affected. The suspension of liquidation ran from September 1, 1929.

This Warsaw agreement disposed of claims complicated in their nature, of several sorts and involving considerable value. According to the German summary[1] about 54,500 hectares of land were liquidated under Art. 92, par. 4, of the treaty of Versailles. Claims which ceased to be a subject of dispute were given as of the following values: Of German nationals against Poland 538,700,000 Reichsmarks; of Polish nationals of German origin 60,000,000 Reichsmarks; of Polish private cases pending against Germany 830,000,000 Reichsmarks; of lands in possession, claims to which were renounced by Poland, 50,000,000 to 60,000,000 Reichsmarks as to country lands and 5,000,000 to 10,000,000 as to city properties. The right of transfer to "colony lands" affected values of 250,000,000 Reichsmarks.

The British chancellor of the exchequer informed the German ambassador on November 11, 1929, that he could not entertain the claim of Germany for the unconditional return to it of all German private property confiscated during the war and remaining unliquidated. A draft agreement laying down a procedure for the liquidation of such property had been prepared as a result of conversations between British and German experts at the Board of Trade, and the chancellor suggested that it was Germany's interest to accept that plan to prevent resumption of liquidation. Mr. Snowden rejected absolutely Germany's claim of payment of all surpluses resulting from

[1] *Entwürfe zu den Gesetzen*, fünfter Teil, p. 95.

the liquidation of private property after the covering of British private losses in Germany on the ground that the decision of the Arbitral Tribunal of Interpretation of May 29, 1928, had decided that question.[1] The convention of December 28 established the *status quo* respecting liquidation. The document [2] is the most detailed of the liquidation settlements and provides different treatment for several categories of cases. The conventions of the dominions follow somewhat the same principles.

On December 31, 1929, the French foreign minister and the German ambassador at Paris signed an agreement providing for halting the liquidation of German properties in France and in Morocco, where German mineralogical concerns, especially the Mannesmann Brothers, were particularly active before the war. By the agreement, German properties in Morocco are to be retroceded within six months to holders agreeable to the Moroccan Government. After the lapse of that period, the Moroccan Government will exercise a right of preemption.

No complete figures have been computed as to the value of claims relinquished by this series of liquidation conventions. The French account has been closed. The value of German properties liquidated in France, Alsace-Lorraine and Morocco from 1920 to January 31, 1930, under Arts. 296 and 297 of the treaty of Versailles amounted to 3,575,377,564 francs. Of this total, 35,544,220 francs had not been paid out to French nationals.[3] About 20,000,000 Reichsmarks on the German side was returnable to the French.

British claims relinquished were said to be of some £50,000,000 (1,000,000,000 Reichsmarks) as against 40,000,000 Reichsmarks relinquished by Germany. German estimates of relinquishments to some other countries were: Belgium, 20,000,000, Canada, 6,500,000, Austria, 5,500,000 and New Zealand 370,000 Reichsmarks.[4]

[1] London *Times*, November 15, 1929, p. 14; November 28, p. 8.

[2] Published as Cmd. 3486.

[3] *Le Temps*, Économique et Financier, April 7, 1930, p. 1.

[4] *Entwürfe zu den Gesetzen*, fünfter Teil, p. 90.

VII. PAYMENT OF GOVERNMENTAL DEBTS

The Belgian, French, German, British and Italian experts signed on June 7, 1929, a concurrent memorandum regarding "out-payments." It is specifically stated that this memorandum is "not a part of the report" of the Committee of Experts. Nevertheless, it has a profound effect upon the entire problem of inter-governmental indebtedness, the central feature of which is dealt with in the report. The Belgian, French, German, British, Italian, Japanese and American experts provided in their report for payments by Germany extending over a period of 59 years, divided into two periods. The first period extends from September 1, 1929, through 36 years and seven months of German fiscal years to March 31, 1966. The second period extends through 22 German fiscal years from April 1, 1966, to March 31, 1988. Reparation payments proper are included in the first period. Provision is made through the Bank for International Settlements for aiding these payments of the last 22 years by a form of annuitizing a capital deposit. It is consequently probable that the payments by Germany in the last 22 years will be paid from a combination of capital income, the special German quota of the bank's profits and a contribution from the German budget, which remains constantly responsible for the total of all annuities. Conventions signed at The Hague on January 20, 1930, enact these proposals.

These arrangements were made to meet the insistence of the principal creditor states of Germany that they must receive from Germany a sum sufficient to meet their own inter-governmental indebtedness, which is to say their indebtedness to the United States Government. This insistence and Germany's acquiescence thereto accounted for the inclusion in the New Plan of the payments due from Germany in the second period. The American experts neither signed nor participated in the drafting of the concurrent memorandum regarding "out-payments."

This memorandum represents conclusions of policy respecting inter-governmental indebtedness arising from the Great War, which had been discussed over many years. There was an original disposition on the part of some of the victors to pool the indebtedness arising out of the war. Representatives of the United States at the Paris Peace Conference declined to discuss such a proposal. At one time it was extensively debated whether it was possible to simplify the total indebtedness by direct arrangements between the eventual debtor and the eventual creditor, under guaranty of the intermediate debtors.

In 1921 the Treasury Department of the United States submitted a draft bill to Congress providing "that the Secretary of the Treasury, with the approval of the President, is hereby authorized from time to time to refund or convert and to extend the time of payment of the principal or interest, or both, of any obligation of any foreign Government . . . , arising out of the European War, into bonds or other obligations of such, or any other, foreign Government. . . ." [1] Respecting this proposal Secretary Mellon in hearings before the Senate Committee on Finance stated on June 29, 1921: "It was considered desirable to be prepared for any contingency. You can imagine where a country may be weak in its resources and that country may have, say, German bonds or bonds of some other country. It may add to the security if those bonds can be accepted, and they naturally will be accepted, with the indorsement or guaranty of the country having the primary obligation."

That proposal was rejected by the Congress, which, in the act creating the World War Foreign Debt Commission approved February 9, 1922, provided:

> Section 3. That this act shall not be construed to authorize the exchange of bonds or other obligations of any foreign nation for those of any other foreign government, or cancellation of any part of such indebtedness except through payment thereof.

[1] S. 2135, 67th Cong., 1st sess.

The British Government was at the same time the largest debtor to the United States and the largest creditor outside of the United States Government. On August 1, 1922, the British Secretary of State for Foreign Affairs sent a note — commonly known as the "Balfour note" — to the French, Italian, Yugoslav, Rumanian, Portuguese and Greek Governments in which he discussed the conditions of international indebtedness.[1] He stated that an aggregate of about £3,400,000,000 was owing to Great Britain, £1,450,000,000 from Germany, £650,000,000 from Russia, and £1,300,000,000 was due from its allies. Great Britain in turn owed the United States a principal sum of about £850,000,000. The American Government had then "required this country to pay the interest accrued since 1919 on the Anglo-American debt, to convert it from an unfunded debt, and to pay it by a sinking fund in 25 years." This was "but one of a connected series of transactions, in which this country appears sometimes as debtor, sometimes as creditor, and if our undoubted obligations as a debtor are to be enforced, our not less undoubted rights as a creditor can not be left wholly in abeyance." Creditor Great Britain consequently called upon its debtors to make arrangements for settlement, and added:

> The policy favored by His Majesty's Government is . . . that of surrendering their share of German reparation and writing off through one great transaction the whole body of interallied indebtedness. But, if this be found impossible of accomplishment, we wish it to be understood that we do not in any event desire to make a profit out of any less satisfactory arrangement. In no circumstances do we propose to ask more from our debtors than is necessary to pay to our creditors. And, while we do not intend to ask for more, all will admit that we can hardly be content with less.

Between 1922 and 1926 the United States World War Foreign Debt Commission made settlements with its creditors, none of which was within the terms of the act

[1] British and Foreign State Papers, 116, p. 198; also Miscellaneous No. 7 (1922), Cmd. 1737.

of February 9, 1922, and all of which consequently required Congressional approval by separate revisionary acts of Congress. The original act had provided for a "minimum rate of interest of 4¼%" and refunding within 25 years. None of the actual settlements averaged interest above 3.306%, and all provided for complete refunding of the principal [1] over a period of 62 years.

In the course of negotiations for the refunding of the debts to the United States, several proposals were made to introduce a "safeguard clause" by which it was to be understood that the debtor was to be accorded consideration in case its receipts from Germany on reparation account failed. Such a clause was constantly rejected by the commission.[2]

The attitude of the United States, to keep the indebtedness involved wholly a transaction between original debtor and original creditor, was further evidenced in the funding

[1] Together with accrued interest to date of the agreement, capitalized additionally.

[2] The acceptance by France of the debt agreement with the United States occurred more than three years after the signing of the document and after an extensive national debate inside and outside of the parliament. The vote on July 20, 1929, in the Chamber was 304 to 292 in favor of a naked authorization of ratification by the President of France in proceedings in which the cabinet continuously made a favorable vote a question of confidence in the Government. The Finance Commission of the Chamber was opposed to naked ratification and, though its proposal was defeated, its text represents the oppositional ideas and is, therefore, quoted:

"Under reserve of the present state of international settlements and under the express reservation that in any case France shall be called upon to devote to the payments provided for in the agreement concluded at Washington, April 29, 1926, only those amounts which it shall itself receive by virtue of the said settlements, the President of the Republic is authorized to ratify the agreement concluded at Washington, April 29, 1926, between the Government of the United States of America and the Government of the French Republic for the consolidation and reimbursement in 62 annuities of the debts contracted by France toward the United States of America."

However, before the rejection of the Commission's proposal, the Chamber had adopted by 282 votes to 274 a resolution reading as follows:

"The Chamber, being now faced with the problem of the ratification of the agreements of Washington and London, and on the eve of the day when the Government is to take part in the labors of the International Conference, renews its fraternal sentiments toward the nations who fought side by side with France in the World War and,

"Considering that France can not, without the gravest disturbance of her national economy, find the means necessary for the fulfilment of the agreements of April 29 and July 12, 1926, unless the German obligations to her are regularly discharged,

"Declares that the charges imposed on the country by the said agreements ought to be covered exclusively by such sums as Germany pays to France, apart from those paid for reparation."

The Senate, 242 to 30, approved ratification on July 26.

of the Belgian debt. Belgium's indebtedness to the United States consisted of two separate sums. The United States had advanced money to the Belgian Government in connection with its conduct of the war and had also loaned it money for national purposes after the armistice. The President of the United States and representatives of the Allies had formally agreed at the Peace Conference that the Belgian prearmistice debt was to be made an obligation of the German Government.[1] The American share of that debt was $170,780,000. In the negotiations Belgium argued that that portion of its debt should be collected direct from Germany. The United States declined to accept this argument, but did agree that the principal amount should be repaid without the addition of interest. The agreement to this effect was made on August 18, 1925. On the previous January 14, the United States, together with all the other creditors of Germany on reparation account, had signed at Paris a financial agreement regarding the distribution of the Dawes annuities by which a portion of each annuity was set aside for reimbursement of the Belgian war debt. Of this annual sum France was to receive 46% direct, Great Britain 42%, "and Belgium (by reason of her debt to the United States of America) 12%." Belgian budget receipts under this head are used to offset the Belgian prearmistice indebtedness to the United States.

France and Great Britain have followed the lead of the United States in the refunding of inter-governmental indebtedness due to the war. Altogether, the three countries as creditors have debt settlements on the war account totalling 16, as follows: [2]

[1] Art. 232 of the treaty of Versailles. On June 16, 1919, the American, British and French chief delegates agreed to recommend to their Governments acceptance of German reparation bonds in lieu of Belgian obligations. The President so recommended to Congress on February 22, 1921.

[2] The agreements are:

United States — Belgium, August 18, 1925; France, April 29, 1926; Great Britain, June 18, 1923; Greece, January 18, 1928; Italy, November 14, 1925; Rumania, December 4, 1925; Yugoslavia, May 3, 1926.

France — Greece, January 20, 1930; Rumania, January 17, 1930; Yugoslavia, January 20, 1930.

Great Britain — France, July 12, 1926; Greece, April 9, 1927; Italy, January 27, 1926; Portugal, December 31, 1926; Rumania, October 19, 1925; Yugoslavia, August 9, 1927.

United States	7
Great Britain	6
France	3

All recipients of reparation, with the exceptions of Japan and the United States, are debtors on the war account and are looking to German reparation payments to meet those obligations.

Until the discussions taking place in the Committee of Experts occurred, no authentic expression of German opinion regarding that country's willingness to appear as the eventual debtor in all of these transactions had been given. The concurrent memorandum of June 7, by reason of its acceptance by the German experts, placed Germany in the same position as all of the interested countries, with the exception of the United States.

The concurrent memorandum identifies for each year of the 59 years of payments under the plan the annual amount which the recipients will require to meet their governmental indebtednesses. The proportion of the German payments devoted to this end represent the major part of the receipts, 77% of the total from 1929 to 1986. During the first period of the plan the amounts are:

Year	Total	Out-Payments
5	1,804.3	1,136.4
10	1,995.3	1,352.5
15	2,194.3	1,451.5
20	2,210.0	1,467.1
25	2,353.3	1,498.1
30	2,393.8	1,538.6
35	2,402.6	1,547.4
37	2,428.8	1,573.7

By the concurrent memorandum, the Belgian, French, German, British and Italian experts agree "that, in the event of modifications of those obligations for out-pay-

ments, by which the creditors benefit, there should be some corresponding mitigation of the German annuities." In effect, this puts into operation as between them the principle enunciated in the Balfour note of 1922.

The principles of the arrangements by which Germany will benefit are set forth in detail. In general, Germany will receive two-thirds of the net relief available by way of reduction during the first period of 37 years, one-third being allocated to the creditor. So long as Germany's liability "persists" for the period after March 31, 1966, $8^1/_3\%$ of the net relief retained by the creditor is to be paid into the Bank for International Settlements. Such sums will accumulate in the bank to assist Germany toward meeting her liabilities in respect of the period after March 31, 1966. After that date, all net relief shall be applied to reduce Germany's liabilities.

The concurrent memorandum provides for conditions which might exist in case the "out-payments" were reduced to such an extent "as to change materially the proportions in which the total annuities provided for in the present plan are divided" among the creditors. Should such remission of debts occur as to bring that situation about, the creditor Governments are to meet to consider a revision tending toward restoration of the proportions fixed by the plan. Such arrangements will be made with a desire to accelerate the liquidation of reparation as well as to reduce its burdens.

These provisions for interrelating inter-governmental indebtedness resulting from the Great War, it will be noticed, retain a considerable amount of the independent action of the respective parties which has been the outstanding characteristic of the whole series of transactions. The debtors were unable, in view of the refunding agreements which they had made, to effect joint arrangements. In this connection there was considered the possibility of employing any remission of indebtedness to reduce the postponable annuities called for in the plan, postponement

to Germany running *pari passu* with postponement accorded in respect to inter-governmental indebtedness.

The provisions of the concurrent memorandum were enacted in an arrangement signed at the second session of the Hague conference by Belgium, France, Great Britain and Northern Ireland, Greece, Italy, Portugal, Rumania and Yugoslavia.[1]

The Belgian Marks Settlement

While the Germans occupied Belgium in the course of the Great War, they controlled the Government of the country. One exercise of this control was the issuance to the public of a mark currency, which remained in circulation for some time. After resumption of Belgian control of the country and Government, the German marks were withdrawn, and their value remained a charge on the Belgian Government. The Brussels authorities had frequently presented their claim under this head as a reparation claim, but it had never been admitted as such. In the interval since 1920 several unsuccessful efforts had been made by the Belgian and German Governments to reach an agreement upon the matter, which greatly interested the Belgian people and, as a consequence, had become a political factor with them. The Brussels Government was, therefore, insistent that a definitive settlement of the reparation problem should provide for a satisfaction of the Belgian mark claim.

None of the other interested Governments had admitted that the claim fell within the treaty categories defined as reparation, but the discussions preceding the call of the committee had made it clear that they favored its concurrent settlement. The Committee of Experts did not accept the mark claim as an item to be included in their settlement. On the other hand, Belgian public opinion, which the Belgian experts necessarily reflected, made it impossible for them to accept a report which did not at

[1] See text of arrangement and memorandum, *infra*, p. 239.

least constructively satisfy the demand of their people. The Belgian experts were insistent that they would be unable to sign a report that did not at least put the mark claim on the definite way to settlement.

The problem was solved, so far as the Committee of Experts was concerned, by undertakings between the Belgian and German experts, whose exchanges of letters were formally made an annex to the report of the whole committee. In this Annex VI, the experts "recognize that the New Plan can not become operative until the Belgian and German Governments have come to an internationally binding agreement on the mark claim." By the letters attached, Dr. Schacht, the first German expert, informed the chairman of the Committee of Experts that the German Government was prepared immediately to enter into "negotiations on a new basis looking to a definite settlement of the mark controversy" and to agree that the negotiations should be concluded before the New Plan was put into force. The German Government had appointed its representative and emphasized that the proposal was made in a conciliatory spirit and in an effort in good faith to remove this impediment to friendly relations between the two countries.

By Art. 34 of the treaty of Versailles, Germany renounced its rights and titles over the territories known as the circles of Eupen and Malmédy to Belgium, the cession to be confirmed within six months by a plebiscite of which the result was to be reported to the League of Nations. The German Government in 1920 complained frequently to the Council of the League concerning the methods by which the plebiscite was conducted and filed a protest against the confirmation by the Council of the plebiscitary vote favorable to Belgium. In connection with the negotiations respecting the Belgian mark claim, the Germans had raised the question of an adjustment of that territorial question in connection with the financial arrangement. Dr. Schacht's letter of June 3 to Mr. Young made

no mention of that possible phase of the negotiation. On June 4, Herr Kastl, the second German expert, addressed to Thomas W. Lamont, the American alternate expert, a further note intended to assure the Belgians on this point. In it Mr. Kastl quoted Dr. Ritter, who was appointed to represent the German Foreign Office in the settlement, to the effect that "no territorial questions will be raised in these negotiations."

On the same day, Emile Francqui, the first Belgian expert, informed the president of the committee that, in view of the undertakings of these letters, the Belgian delegation, which "has refused to sign the report before a settlement of the mark question had been realized," now agreed to sign it "before the mark negotiations have been terminated."

The negotiations thus provided for were concluded by a Belgo-German agreement signed at Brussels on July 13. As contemplated by the Committee of Experts, it took the form of annuities similar to those covered in the report and also provided for the payments being administered in the same way by the Bank for International Settlements. The initial claim of the Belgians was 390,000,000 marks. The agreement reached gave a present value of 320,000,000 marks.[1] The annuity payments are as follows:

1.	September 1, 1929–March 31, 1930	16,200,000
2–4.	April 1, 1930–March 31, 1933	21,500,000
5–12.	April 1, 1933–March 31, 1941	26,000,000
13–20.	April 1, 1941–March 31, 1949	20,100,000
21–37.	April 1, 1949–March 31, 1966	9,300,000

The German engagement to pay is unconditional, but the right to make payment by deliveries in kind is reserved.

Simultaneously with the signing of this agreement, another was signed at Berlin between Belgium and Germany providing for the restoration of sequestrated German properties which had not been liquidated. This arrange-

[1] Luxemburg, in which marks were also issued, benefits by the settlement to the extent of 1/30 of the total.

ment was in fulfilment of the recommendation of the Committee of Experts in Part IX of their plan. It involved a settlement of properties valued at about 400,000,000 Belgian francs ($5,700,000).

As the Belgian mark payments by Germany are additional to the annuities of the New Plan, the entire schedule is here given: [1]

[1] *L'Europe Nouvelle*, August 3, 1929, p. 1075.

Sums to be Paid by Germany to Belgium

	Millions of Reichsmarks	Value in Belgian Francs
September 1, 1929–March 31, 1930	16.2	138,769,200
1930–1931	21.5	184,169,000
1931–1932	21.5	184,169,000
1932–1933	21.5	184,169,000
1933–1934	26.0	222,716,000
1934–1935	26.0	222,716,000
1935–1936	26.0	222,716,000
1936–1937	26.0	222,716,000
1937–1938	26.0	222,716,000
1938–1939	26.0	222,716,000
1939–1940	26.0	222,716,000
1940–1941	26.0	222,716,000
1941–1942	20.1	172,176,600
1942–1943	20.1	172,176,600
1943–1944	20.1	172,176,600
1944–1945	20.1	172,176,600
1945–1946	20.1	172,176,600
1946–1947	20.1	172,176,600
1947–1948	20.1	172,176,600
1948–1949	20.1	172,176,600
1949–1950	9.3	79,663,800
1950–1951	9.3	79,663,800
1951–1952	9.3	79,663,800
1952–1953	9.3	79,663,800
1953–1954	9.3	79,663,800
1954–1955	9.3	79,663,800
1955–1956	9.3	79,663,800
1956–1957	9.3	79,663,800
1957 1958	9.3	79,663,800
1958–1959	9.3	79,663,800
1959–1960	9.3	79,663,800
1960–1961	9.3	79,663,800
1961–1962	9.3	79,663,800
1962–1963	9.3	79,663,800
1963–1964	9.3	79,663,800
1964–1965	9.3	79,663,800
1965–1966	9.3	79,663,800
	607.6	

CONSPECTUS OF ALL REPARATION PAYMENTS

(Millions and decimals thereof)

Annuity Year	Year ending March 31	Germany (Reichsmarks) Young Annuity	Germany (Reichsmarks) United States	Germany (Reichsmarks) Belgium	Bulgaria (Gold Francs)	Hungary (Gold Crowns)	Czechoslovakia (Reichsmarks)
1	1930 . .	676.9	65.9	16.2	5.0	7.0	10.0
2	1931 . .	1,641.6	66.3	21.5	10.0	8.0	10.0
3	1932 . .	1,618.9	66.1	21.5	10.0	9.0	10.0
4	1933 . .	1,672.1	66.1	21.5	10.0	10.0	10.0
5	1934 . .	1,744.9	59.4	26.0	10.0	11.0	10.0
6	1935 . .	1,807.5	59.4	26.0	10.0	12.0	10.0
7	1936 . .	1,833.5	59.4	26.0	10.0	13.0	10.0
8	1937 . .	1,880.3	59.4	26.0	10.0	13.0	10.0
9	1938 . .	1,919.8	57.2	26.0	10.0	13.0	10.0
10	1939 . .	1,938.1	57.2	26.0	10.0	13.0	10.0
11	1940 . .	1,983.4	59.4	26.0	10.0	13.0	10.0
12	1941 . .	2,096.1	59.4	26.0	11.5	13.0	10.0
13	1942 . .	2,114.6	66.1	20.1	11.5	14.0	10.0
14	1943 . .	2,131.9	66.1	20.1	11.5	14.0	10.0
15	1944 . .	2,128.2	66.1	20.1	11.5	13.5	10.0
16	1945 . .	2,141.4	66.1	20.1	11.5	13.5	10.0
17	1946 . .	2,137.7	66.1	20.1	11.5	13.5	10.0
18	1947 . .	2,133.4	66.1	20.1	11.5	13.5	10.0
19	1948 . .	2,149.1	66.1	20.1	11.5	13.5	10.0
20	1949 . .	2,143.9	66.1	20.1	11.5	13.5	10.0
21	1950 . .	2,240.7	76.1	9.3	11.5	13.5	10.0
22	1951 . .	2,283.1	76.1	9.3	12.5[1]	13.5	10.0
23	1952 . .	2,267.1	76.1	9.3	12.5	13.5	10.0
24	1953 . .	2,270.1	76.1	9.3	12.5	13.5	10.0
25	1954 . .	2,277.2	76.1	9.3	12.5	13.5	10.0
26	1955 . .	2,288.5	76.1	9.3	12.5	13.5	10.0
27	1956 . .	2,283.7	76.1	9.3	12.5	13.5	10.0
28	1957 . .	2,278.1	76.1	9.3	12.5	13.5	10.0
29	1958 . .	2,285.7	76.1	9.3	12.5	13.5	10.0
30	1959 . .	2,317.7	76.1	9.3	12.5	13.5	10.0
31	1960 . .	2,294.5	76.1	9.3	12.5	13.5	10.0
32	1961 . .	2,304.4	76.1	9.3	12.5	13.5	10.0
33	1962 . .	2,322.2	76.1	9.3	12.5	13.5	10.0
34	1963 . .	2,314.1	76.1	9.3	12.5	13.5	10.0
35	1964 . .	2,326.5	76.1	9.3	12.5	13.5	10.0
36	1965 . .	2,326.0	76.1	9.3	12.5	13.5	10.0
37	1966 . .	2,352.7	76.1	9.3	12.5	13.5	10.0
	Totals . .	76,925.6	2,557.7	607.6	420.2	473.5	370.0
	Totals in dollars	$18,308.3	$608.7	$144.6	$80.9	$95.8	$88.06
	1967–88 . .	33,810.1 $8,046.8					
	1967–81 . .	–	612.0 $145.6				

Grand total in dollars, $27,519,248,000

[1] 15,238 francs additional in the annuities 1951–66 are included in the total.

RECEIPTS ON ALL ACCOUNTS, 1930–36.

G — German payments in Reichsmarks ($0.238).
B — Bulgarian payments in gold francs ($0.19295).
C — Czechoslovak payments in Reichsmarks ($0.238).
H — Hungarian payments in gold crowns ($0.2026).
Hungarian receipts from Great Britain, France and Italy are in gold crowns.

Great Britain receives annuities of 16,650,000 Reichsmarks from France, of 3,150,000 from Belgium and of 9,000,000 from Italy not tabulated.

(000 omitted)

	Years ending March 31						
	1930	1931	1932	1933	1934	1935	1936[1]
France	G 418,800	G 900,700	G 838,400	G 879,800	G 879,100	G 941,800	G 962,800
	C 3,188	C 3,188	C 3,188	C 3,188	C 3,188	C 3,188	C 3,188
British Empire	G 53,100	G 366,800	G 362,000	G 364,500	G 454,800	G 450,100	G 444,900
	C 1,384	C 1,384	C 1,384	C 1,384	C 1,384	C 1,384	C 1,384
Italy	G 42,500	G 156,000	G 190,860	G 196,300	G 192,400	G 193,600	G 195,200
	C 3,146	C 3,146	C 3,146	C 3,146	C 3,146	C 3,146	C 3,146
Belgium[2]	G 86,900	G 119,700	G 124,100	G 126,800	G 126,300	G 128,800	G 136,000
	C 418	C 418	C 418	C 418	C 418	C 418	C 418
Greece	G –	G 3,600	G 6,700	G 6,900	G 7,200	G 7,200	G 7,200
	B 5,000	B 7,673	B 7,673	B 7,673	B 7,673	B 7,673	B 7,673
	C 1,758	C 1,758	C 1,758	C 1,758	C 1,758	C 1,758	C 1,758
	H 6,138	H 6,896	H 7,673	H 8,440	H 9,208	H 9,975	H 9,975
Hungary	–	BR 600	BR 600	BR 1,320	BR 1,320	BR 1,320	BR 1,320
	–	F 1,200	F 1,200	F 2,640	F 2,640	F 2,640	F 2,640
	–	I 1,200	I 1,200	I 2,640	I 2,640	I 2,640	I 2,640
Rumania	–	G 10,000	G 12,000	G 13,000	G 13,900	G 14,700	G 16,100
	–	B 1,300	B 1,300	B 1,300	B 1,300	B 1,300	B 1,300
	H 1,040	H 1,170	H 1,300	H 1,430	H 1,560	H 1,690	H 1,690
Yugoslavia	G 72,100	G 79,400	G 79,300	G 79,400	G 72,400	G 72,500	G 72,600
	–	B 500	B 500	B 500	B 500	B 500	B 500
	H 400	H 450	H 500	H 550	H 600	H 650	H 650

[1] Payments other than German are the same until 1940.

[2] German payments include the Young Plan and the mark settlement annuities as a total.

APPENDIX

I. THE NEW PLAN

NOTE. — In order to bring out the main features of the New Plan and to consolidate them within the minimum space for the convenience of the reader, extensive editorial compression has been resorted to. All transitional documents have been omitted and identified with relation to their final form. Permanent portions of transitional documents have been retained or assimilated to their pertinent texts by full quotation in footnotes. The following pages in this way present all general features of 250 pages of formal texts, to be found in:

Report of the Committee of Experts on Reparations. London, His Majesty's Stationery Office, 1929. 69 p. (Cmd. 3343).

International Agreement on the Evacuation of the Rhineland Territory, The Hague, August 30, 1929. London, His Majesty's Stationery Office, 1929. 17 p. (Miscellaneous No. 7 (1929), Cmd. 3417).

Protocol with Annexes approved at the Plenary Session of The Hague Conference, August 31, 1929. London, His Majesty's Stationery Office, 1929. 11 p. (Miscellaneous No. 5 (1929), Cmd. 3392).

Agreements concluded at the Hague Conference, January, 1930. London, His Majesty's Stationery Office, 1930. (Miscellaneous No. 4 (1930), Cmd. 3484.) Cited as *Agreements.*

Entwürfe zu den Gesetzen über die Haager Konferenz und die Sonder-und Liquidationsabkommen. Amtliche Ausgabe. [Berlin, 1929.] Cited as *Entwürfe zu den Gesetzen.*

1. REPORT OF THE COMMITTEE OF EXPERTS, JUNE 7, 1929[1]

¶1. We transmit to the Governments which took part in the Geneva decision and to the Reparation Commission our proposals for a complete and final settlement of the reparation problem, including the settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers, and we unanimously recommend the following plan to the Governments concerned.

[1] Reprinted from British Parliamentary Paper Cmd. 3343, with paragraphs numbered in accordance with the Reparation Commission print.

1. Appointment, Terms of Reference and Constitution

¶2. This committee originated with the decision taken by the Belgian, British, French, German, Italian and Japanese Governments to intrust to independent experts the task of drawing up proposals for a complete and final settlement of the reparation problem. Twelve experts were to be chosen among the nationals of countries which participated in this decision, and two among the nationals of the United States of America. Each of the experts invited was empowered to appoint an alternate.

¶3. The appointments of the invited experts as members of the committee were made according to the following procedure:

¶4. The Belgian, British, French, Italian and Japanese experts were appointed by the Reparation Commission upon the nomination of their respective Governments.

¶5. The German experts were appointed by the German Government.

¶6. The experts being citizens of the United States of America were appointed by the Reparation Commission conjointly with the German Government.

¶7. The mandate of the committee of experts thus formed is set forth in the following terms of reference:

¶8. "The Belgian, British, French, German, Italian and Japanese Governments, in pursuance of the decision reached at Geneva on September 16, 1928, whereby it was agreed to set up a committee of independent financial experts, hereby intrust to the committee the task of drawing up proposals for a complete and final settlement of the reparation problem. These proposals shall include a settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers. The committee shall address its report to the Governments which took part in the Geneva decision and also to the Reparation Commission."

¶9. The committee was constituted with the following membership:

Belgian experts: M. Emile Francqui, M. Camille Gutt — alternates: Baron Terlinden, M. H. Fabri.

British experts: Sir Josiah Stamp, G. B. E.; Lord Revelstoke, G. C. V. O. — alternates: Sir Charles Addis, K. C. M. G.; Sir Basil Blackett, K. C. B., K. C. S. I.

French experts: M. Emile Moreau, M. Jean Parmentier — alternates: M. C. Moret, M. Edgar Allix.

German experts: Dr. Hjalmar Schacht, Dr. A. Voegler — alternates: Dr. C. Melchior, Herr. L. Kastl.

Italian experts: Dr. Alberto Pirelli, M. Fulvio Suvich — alternates: M. Giuseppe Bianchini, M. Bruno Dolcetta.

Japanese experts: Kengo Mori, Takashi Aoki — alternates: Saburo Sonoda, Yasumune Matsui.

American experts: Owen D. Young, J. P. Morgan — alternates: Thomas N. Perkins, T. W. Lamont.

¶10. We have to record our deep sense of regret at the death of Lord Revelstoke, which took place suddenly at an early hour on Friday, April 19. By his untimely removal from our counsels we suffered the loss of one whose unfailing tact and wisdom had gained the affection and respect of all of us and contributed greatly to our progress. In honor of his memory all meetings were suspended until Tuesday, April 23. On April 20 the Reparation Commission unanimously passed a resolution "deploring the death of Lord Revelstoke and instructing the general secretary to convey an expression of sympathy to the committee of experts on the loss of their distinguished colleague."

¶11. In a separate communication the Reparation Commission advised the committee that they had: "Unanimously appointed, on the nomination of His Britannic Majesty's Government, Sir Charles Addis, K. C. M. G., to be a member of the experts' committee in succession to the late Lord Revelstoke."

¶12. On May 23 the committee were advised that the German Government had appointed Herr L. Kastl to be a member in the place of Dr. Voegler, of whose resignation the committee had learned with regret on the previous day.

2. Meetings of Committee

¶13. The experts met for the first time informally at the Bank of France on Saturday morning, February 9, to fix the date of the first meeting of the committee and to discuss matters of organization and procedure.

¶14. The first regular meeting of the committee was held on Monday, February 11, at 2 o'clock in the afternoon, in the Hotel George V. At this meeting Mr. Owen D. Young was unanimously chosen chairman.

¶15. The committee has been in continuous session over a period of some 17 weeks. Subcommittees were set up as required for the study of particular questions and met frequently in the intervals between the plenary sessions.

3. Attitude of the Committee

¶16. The report of the Dawes Committee opened with the following words:

¶17. "We have approached our task as business men anxious to obtain effective results. We have been concerned with the technical, and not the political, aspects of the problem presented to us. We have recognized, indeed, that political considerations necessarily set certain limits within which a solution must be found if it is to have any chance of acceptance. To this extent, and to this extent only, we have borne them in mind."

¶18. It is in this spirit that the present committee have addressed themselves to the task of rounding off the work of their predecessors which was advisedly left incomplete. By determining the number and amount of the annuities and by providing for the conversion of the reparation debt from a political to a commercial obligation, they have to the best of their ability tried to perform the task committed to them of devising a scheme which might fairly be accepted by all parties concerned.

¶19. Throughout our deliberations and in our present proposals we have endeavored to reach our conclusions on economic and financial grounds. But we have realized, like our predecessors, that political factors necessarily set certain limits within which a solution had to be found if our proposals were to secure acceptance. We had therefore to base our decisions not only on economic, but also to some extent on political considerations. Many important juridical questions are also involved, and while as financial experts we are not specially qualified for going into details on them, their broader aspects have been always in our minds. Indeed, it has been clear to us that close attention to them would have made our handling of the larger questions well-nigh impossible; but the committee is satisfied that the scheme it recommends is within its terms of reference.

¶20. The meeting of the present committee of experts marks the first occasion on which representatives of all the six nations chiefly concerned (together with American experts) have sat down together to work out on a large scale the common problems of reparations, and to cooperate in exploring the various means by which Germany could be enabled to discharge her obligations.

¶21. The Dawes report made no attempt to establish the causes leading up to the situation which its provisions sought to ameliorate.

In adhering to this precedent we have attempted to go further, and, through the proposed creation of the machinery which we recommend, to set up an institution whose direction from the start shall be cooperative and international in character, whose members shall engage themselves to banish the atmosphere of the war, to obliterate its animosities, its partisanships, its tendencious phrases, and to work together for a common end in a spirit of mutual interest and good-will.

4. The Study of Germany's Economic Conditions

¶22. During the course of its deliberations the committee have given close consideration to the various aspects of Germany's present economic position and future potentialities,[1] because of their material relation to her capacity to discharge obligations to foreign creditors.

¶23. The committee had among their number six members of the Dawes committee of 1924, whose contact with this aspect of the subject was obviously at that time close and responsible. Further, the committee includes several who have been associated with the practical working of the plan. These members have naturally had an unusual and continuous interest in the course of events unrolled during the past five years.

¶24. Furthermore, the periodical reports made by the Agent General and trustees and commissioners upon the working of the Dawes plan and the reports of the Reichsbank itself, have given comprehensive reviews of Germany's position and development. The body of knowledge so available and the public interest and discussion it has stimulated have been of the greatest assistance to the committee.

¶25. Moreover, they have been specially assisted by the able and lucid descriptions of the present economic condition of Ger-

[1] Owen D. Young in his address at Berkeley, Calif., March 24, 1930, said:

"But I have great confidence in Germany's capacity to pay. True, she has not a large supply of what the world calls basic raw material. She has, in large measure, however, a supply of that kind of raw material too little taken into account in the world's affairs, namely a capacity for scientific research, and the ability to apply it and organize it in production. It is not unlikely that in the years to come this particular kind of raw material with which Germany is well endowed, may be the reservoir out of which these vast sums will be produced and paid. If Germany does make the payments out of such a reservoir, the rest of the world must be careful to avoid the enervating effects resulting from the receipt of such payments. We should all remember that the discipline of hard work and of heavy responsibility is likely to do much for a people as well as for an individual. Let no man be sure; let no nation be sure, merely because he is a creditor of some one else's labor, that therefore he is strong and will always remain so."

many and the possibilities of German development which have been made by the German experts, who were well fitted by their respective positions in Germany to give, in combination, an impressive review of the subject. The considerations put forward by them in our numerous discussions and in answer to the questions addressed to them have been a constant and powerful influence in leading us to our conclusions.

¶26. The German experts have given the committee complete information as to the demands for foreign capital made by German economy during recent years and as to the items which in their opinion counteracted this: External assets of Germany, reconstitution of the stocks and of the machinery of the country. The productivity of capital thus invested has been discussed by the committee, who have also considered the comparison between the fiscal burdens and the burdens of public debt in Germany and in other countries.

¶27. The German experts have also made statements before the committee as to the present state of German industry and agriculture, the general level of wages, the budgetary situation, the balance of payments, the financial effect of compensation to her nationals, the influence upon her trade of customs barriers abroad, and the special situation of an industrial country such as Germany, which has had to reconstitute her working capital, and at the same time assume the burden of heavy international obligations.

¶28. The German experts laid stress on the question of natural resources available to Germany, whether within her borders or not, and on Germany's capacity to pay as affected thereby.

¶29. These statements have been present in the consideration of the experts and in a large measure their conclusions have been influenced by them.

¶30. It is unnecessary for us to set out the various considerations of an economic character which have led to our conclusions on the capacity of Germany to transfer. We believe that in the scale of annuities and the conditions recommended we have given proper regard to the potentialities of all the economic conditions and financial forces normally and naturally involved. We believe further that, in arranging for a part of the annuity to carry rights of postponement and for impartial inquiry, we have provided for the possibility of meeting any abnormal or special difficulty arising which might seriously affect Germany's capacity for a time, despite all that might be done by Germany's good-will and ingenuity to

meet such difficulty, without having recourse to an altogether exceptional but nevertheless very valuable expedient.

¶31. As a substitute for the present system of transfer protection, with its semi-political controls, its derogation from Germany's initiative and its possible reactions upon credit, we are recommending a scheme of annuities appreciably smaller than the Dawes obligations and subject to new and elastic conditions, which are described at length in the succeeding chapters of the present report. As an internal burden to be borne by annual taxation the scheme we propose is materially less; it is closely assimilated to commercial and financial obligations; it carries with it welcome freedom from interference and supervision and it is provided with adequate safeguards against any period so critical as to endanger Germany's economic life.

5. Course of the Proceedings

¶32. The committee addressed themselves at the outset to the essential task before them, namely, to determine the number and amount of the annuities to be paid by Germany; but they soon found the amounts were to a considerable extent contingent upon the machinery and form of payment and, therefore, that they were not at that stage ready to reach a conclusion either as to the amount of the annuities or the number of years during which they should continue. Moreover, if Germany were to be given a definite task to perform on her own responsibility, and if the committee were to substitute for many of the features of the Dawes plan machinery of a nonpolitical character in the realm of general finance, it was clearly necessary to elaborate a system for handling the annuities in a way which so far as it led to their commercialization would remove them from the sphere of inter-governmental relations. In the first instance, some time was occupied by the committee in hearing the statements from the German experts on German economic conditions and the outlook for the future, so far as they affected Germany's capacity to pay obligations in foreign currencies. It then became known that the German group felt that the ability of Germany to undertake a definite annuity obligation might vary according to other provisions comprised in the committee's recommendations, and in particular according to whether the annuity was entirely unconditional or whether some portion of it was payable under arrangements for postponement in the event of financial and exchange difficulties. The idea was also put forward that if such a situation arose, it was desirable for it to be immediately considered

by an appropriate nonpolitical committee, acting in an advisory capacity to the powers concerned and meeting unostentatiously without waiting to be constituted by the lengthy process of diplomatic action. It was quickly realized that since the amount of the burden which Germany could agree to accept was directly related to such concomitant conditions, these conditions must be first explored.

¶33. At the same time, the possibility of accepting smaller annuities than those fixed under the Dawes plan was admittedly dependent upon the certitude and ease with which the creditors could commercialize the obligations under nonpolitical conditions.

¶34. The arrangements that have been in force under the Dawes scheme for liquidating a part of the annuity by means of deliveries in kind required consideration from two points of view:

¶35. *a*. The substitution for the existing methods of a more elastic machinery which, as the Dawes committee recommended, should be nonpolitical;

¶36. *b*. The gradual termination of the system at the earliest moment consistent with existing relationships and with the interests of Germany, whose economic life has been during the past few years gradually adapted to them, and who would feel herself prejudiced in an economic sense by their too sudden termination.

¶37. The inquiries upon these subjects were found to be converging upon one central point, viz., the nature of the authority which should act as the chief medium for discharging the various functions under a new plan.

¶38. In the exploration of the problem of substituting authority of an external financial and nonpolitical character for the present machinery and controls of the Dawes plan (viz., the administration of the Agent General and of the various commissioners in Berlin, and those functions of the Reparation Commission which were involved), they immediately met with the necessity for a trustee to whom the payments in foreign currencies and Reichsmarks should be made by Germany, and by whom the distribution to the appropriate recipients should be managed.

¶39. In the second place, the problems of mobilization and commercialization demanded a common center of action and authority for the purpose of coordinating and controlling the arrangements, and there were obvious advantages in such an authority being of a continuous or permanent character.

¶40. In the third place, the continued existence of deliveries in kind necessitated special machinery of direction and control, at any rate for a period of years.

¶41. They had already considered the desirability of an advisory committee which could take any necessary action in connection with the declaration of a postponement on the postponable part of the annuity. A permanent central authority might include among its functions the convening of such an advisory body, international in character and existing as a constituent part of this central authority, to consider the situation which had brought about the necessity for a postponement, or the situation which a postponement itself created.

¶42. Again, the possibility that, either exceptionally or regularly as part of the plan, obligations would be discharged in marks within Germany, necessitated a financial authority to arrange for the disposition of such funds or assets in the interests of the creditors, by arrangement with the Reichsbank or other German authority.

¶43. Moreover, in so far as the task of transferring the payments into foreign currencies involved, besides a restriction of imports, an extension of the German export trade, we envisaged the possibility of a financial institution that should be prepared to promote the increase of world trade by financing projects, particularly in undeveloped countries, which might otherwise not be attempted through the ordinary existing channels.

¶44. These several considerations led the committee to the elaboration of a plan for a Bank for International Settlements, which should, in its various functions, meet all these points. The outline of this scheme is given in Part 6 and Annex I.[1]

¶45. It will be seen that the essential reparation functions of the bank were such as to form a solid reason for its existence; but the committee were inevitably to add to those reasons the auxiliary, but none the less material advantages that it might have in the general position of present international finance.

¶46. Just as it had been difficult at the outset to table and discuss a precise program of annuities under a new system until such a system were agreed in outline, because the amounts were themselves dependent upon that system, so at this point in the discussions it became difficult for various members to form definite opinions and commit themselves on all details as they were elaborated in the new system until a clearer idea of the obligations that would be undertaken by Germany under that scheme had been obtained. Without, therefore, having resolved all points of doubt on the new system, or done more than sketch it in broad outline,

[1] Not reprinted; see for final substance the Charter and the Statutes of the Bank and the Trust Agreement.

they found that the moment had arrived when the discussion of figures became possible and necessary.

¶47. At this stage the following broad principles were understood to be likely to find their way into any final settlement:

¶48. 1. A division of the annuity into an unconditional and a postponable part;

¶49. 2. The necessity for continuing deliveries in kind for a few years;

¶50. 3. The arrangement of suitable conditions for the postponable part in times of exceptional difficulty.

¶51. In order to put the question into concrete terms, memoranda were tabled by the chairman, by the experts of the four chief creditor countries and by the German experts. A considerable time was spent in discussing these proposals without agreement being reached. Finally the chairman prepared a new and independent plan in which these divergent views were brought closer together. The main feature of his plan was an average annuity of 2,050,600,000 Reichsmarks; and, subject to certain reserves as to the matters of detail, this figure was accepted by the entire committee as the basis of further discussion, and led to the unanimous recommendations now put forward. Among those reserves is the question of the settlement of the Belgian mark claim which the committee had continually in contemplation and the unanimous agreement upon which is to be found in Annex VI.[1]

6. Bank for International Settlements

A. General Reasons for the Constitution of an Institution with Banking Functions

¶52. A general plan for a complete and final settlement of the reparation problem, being primarily financial in character, involves the performance of certain banking functions at one or more points in the sequence between the initial payment of the annuities and the final distribution of the funds. A banking institution designed to meet these requirements justifies and makes logical the liquidation of all political controls and provides instead machinery essentially commercial and financial in character, which carries with it all the support and at the same time all the responsibilities that economic

[1] The condition set forth in the annex was that Belgium could not "join in the Report except on the understanding that an agreement for the settlement of the mark claim will be reached by direct negotiations." The settlement of July 13, 1929, is described at p. 135. See *Entwürfe zu den Gesetzen*, p. 311, for text.

engagements imply. The process of removing the reparation problem from the political to the financial sphere which was begun in the Dawes plan will thus be carried a step further.

¶53. In general terms, the institution will take over such functions of the existing agencies as it may be necessary to continue and will perform the whole work of external administration such as the receipt and distribution of payments and the commercialization of those parts of the annuities which are susceptible of being commercialized.

¶54. The operations of the institution will be assimilated to ordinary commercial and financial practice. Its organization will be outside the field of political influences and its powers and facilities will be sufficiently broad to enable it to deal freely and promptly with the problems involved in the settlement of Germany's obligations. The institution will be equipped with machinery which will provide an elastic element between the payments to be made by Germany and their realization. In consequence, the creditors will have further assurance that the effects of economic changes on the flow of payments will be minimized, and Germany for her part will have the possibility of assistance during temporarily unfavorable conditions.

¶55. It is obviously desirable, in the interest of obtaining results with the greatest efficiency, not to limit unduly the functions of the institution. The character of the annuities and the magnitude of the payments to be transferred over the exchanges provide at once the opportunity and the need for supplementing with additional facilities the existing machinery for carrying on international settlements, and, within limitations of the sound use of credit, to contribute to the stability of international finance and the growth of world trade. We consider that by judicious non-competitive financial development the bank should prove a useful instrument for opening up new fields of commerce, of supply and of demand, and will thus help to solve Germany's special problem, without encroaching on the activities of existing institutions.

¶56. In designing the plan for the Bank for International Settlements, which is given in outline in Annex I, we were, therefore, mindful of the fact that these new facilities should not supplant, but should augment and perfect existing arrangements for carrying through international settlements. The bank will have (*a*) as its essential or obligatory functions those which are inherent in the receipt, management and distribution of the annuities, and (*b*) as its auxiliary or permissive functions those which evolve more in-

directly from the character of the annuities. There is no hard and fast line between the two sets of functions, because the first lead naturally into the second.

B. Organization of the Bank

¶57. In view of the part which the bank will have to play in the general interest it is advisable to place the control of its management in the hands of the central banks, since these are the organizations responsible in each market for the convertibility of the national currencies and the control of credit.

¶58. At the time of the bank's constitution the capital will be geographically distributed in such a way as to associate in the bank's working and in its development all the countries interested in the reparation settlement and all the financial markets which may subscribe to the bank's issues.

¶59. Provision is made for the utilization of the net profits of the bank, due allowance being made for the payment of cumulative dividends on the capital stock, to create suitable reserve funds. Provision is also made, in case Governments or central banks make long-term deposits with the bank, whereby they shall share proportionately in the remainder of the profits, after the requirements on account of dividends and the reserve funds have been covered.

¶60. Inasmuch as its international basis is an essential feature which distinguishes the institution from all others, it has no single fiscal allegiance and it is desirable that in its movements in the various national markets it should not be hampered or restricted by considerations of relative fiscal burdens. It is therefore recommended that the Governments of the countries concerned enter into a convention for the avoidance of double and triple taxation of the bank along the following lines:

¶61. *a.* The funds and investments of the bank to be freed from national taxation at the point where they derive interest, income and profit;

¶62. *b.* All individuals and corporations receiving profit, interest or income from the bank to be fully liable thereon to such taxation as such individuals and corporations would attract if the profit, interest or income were derived from any other source.

¶63. *1. Capital.* On the formation of the bank its authorized capital will be in the equivalent of $100,000,000. The entire amount will be issued, but only 25 per cent of each share shall be called up, until the Board of Directors decides on a further call. The

allocation of shares by countries is provided for in Section II of Annex I.[1] The shares will carry no voting rights; but voting rights corresponding to the number of shares first issued in each country will be exercised by the central bank of that country in the general meetings attended by representatives of those banks, taking the place of general meetings of shareholders.

¶64. *2. Administration.* The entire administrative control of the bank will be vested in the Board of Directors. The functions of a director of the bank are incompatible with those involving national political responsibilities, and the statutes of the bank will make the necessary provision in order to avoid such conflict of functions. All the directors and candidates shall be ordinarily resident in Europe, or shall be in a position to give regular attendance at meetings of the board.

¶65. The Governor of the central bank of each of the seven countries to which members of the present Experts' Committee belong, or his nominee, will be entitled to be a director of the bank *ex officio.* Each of these Governors may also appoint one Director, being a national of his country and representative either of finance or of industry or commerce. During the period of the German annuities the Governor of the Bank of France and the President of the Reichsbank may each appoint, if they so desire, one additional Director of his own nationality, being a representative of industry or commerce. These fourteen (or, as the case may be sixteen) Directors will elect not more than nine additional Directors from lists furnished by, and which may include, the Governors of central banks in other participating countries.

¶66. If, in the process of organizing the bank or in the performance of its functions after establishment, it is found that the central bank of any country or its Governor is unable to act officially or unofficially in exercising the functions, authorities or privileges accorded to central banks under the plan, or refrains from doing so, alternative arrangements not inconsistent with the laws of that country will be made. These alternative arrangements are outlined in Section XII of Annex I.[2]

¶67. *3. Distribution of Profits.* The profits shall be divided in accordance with the provisions contained in Annex I.[3]

[1] Not reprinted; for final form see Arts. 5–15 of the Bank Statutes.

[2] Not reprinted; for final form see Charter (6), Arts. 28, 52, 56 of the Bank Statutes and Art. II*a* of the Trust Agreement.

[3] Not reprinted; for final form see Art. 53 of the Bank Statutes.

C. General Observations on the Bank

¶68. The foregoing outline of the functions and organization of the Bank for International Settlements, together with the fuller presentation of the bank plan in Annex I,[1] largely speaks for itself. It remains, however, to point out certain advantages which the bank offers as against the existing reparation procedure, and advantages which accrue both to Germany and to the creditor countries, because the bank in putting the payments on a business basis makes their receipt the more certain and facilitates their movement.

¶69. The new facilities introduced by the bank are in addition to the provisions given elsewhere in the plan, whereby Germany is entitled to declare a postponement of transfer. They are rather in the nature of forestalling circumstances which might of themselves lead to a transfer postponement. These measures of prevention are of two general sorts: First, the bank may employ its power of giving credit to arrange temporary assistance in transferring the annuities; second, the bank will be in a position, in agreement with the Reichsbank, to invest in Germany Reichsmarks currently accruing to its account at the Reichsbank. This measure to the extent to which it may be utilized will return to the German economy a portion of the annuity, and, through the bank's credit mechanism, provide the foreign exchange with which to pay the current allotments to the creditors on account of the annuity. The application of either or both of these measures is prompt and decisive, and they operate in advance of the time when difficulties present themselves rather than afterward, and serve to ease any strain until such time as the discount rate and other corrective measures have had opportunity to exert themselves.

¶70. It is not to be assumed that these two measures should be reserved for emergency use. The use of the bank's credit by central banks within moderate limits and over short periods may in time become a normal function scarcely different in its exercise from the use of central bank credit by banks and bankers. All central banks, for ordinary exchange operations or for other purposes, would frequently find it advantageous to make use of the facility. The second measure, that of investing within Germany some portion of the annuity receipts, should also find its uses in

[1] Annex I is the basis, frequently with the language literally taken over, of the Statutes of the Bank and the Trust Agreement, printed *infra*, at p. 203.

normal times. Both measures are necessarily limited by the funds which the bank will have at its disposal and by the requirement that it maintains its liquidity at all times.

¶71. These are instances of the bank's utility to Germany. They also illustrate the flexibility which the bank's facilities give to the handling of the disbursements to the creditors. Further instances of joint benefit may be briefly indicated. The bank will be able to give short term and intermediate credit to purchasers of deliveries in kind, notably for the construction of public works on delivery-in-kind account. Intermediate credit operations need not be restricted, however, to any one country or to the purchase of any one country's goods. On the contrary, it would be desirable to broaden such operations in the interest of world trade to the extent that the Directors of the Bank approve. As a stabilizing factor in the foreign exchanges its advantages are obvious; and if in due time the arrangements provided for an international settlement fund are put into effective operation, the bank should go far to eliminate the costs and risks now incurred in the shipping and reshipping of gold.

¶72. The bank excludes from its procedure all political influences, and business principles and practice intervene to facilitate the settlement of Germany's obligations without in any way qualifying her independent and sole responsibility. The Office for Reparation Payments and its associated organizations in Berlin will be retired, and the Reparation Commission's relations with Germany will be terminated. Germany will assume the responsibility for raising and transferring the annuities, and the bank takes over the work of their receipt and disbursement.

¶73. As already stated, the bank is so designed as not to interfere with the functions performed by existing institutions, but it is to create for itself supplementary functions in a special field of its own. To this end every care should be exercised in the organization and administration of the institution.

¶74. In the natural course of development, it is to be expected that the bank will, in time, become an organization, not simply, or even predominantly, concerned with the handling of reparations, but also with furnishing to the world of international commerce and finance important facilities hitherto lacking. Especially it is to be hoped that it will become an increasingly close and valuable link in the cooperation of central banking institutions generally — a cooperation essential to the continuing stability of the world's credit structure.

7. The Influence of the Form of the Annuity on the Amount

¶75. We are proposing a series of total annuities which should be paid with the regularity of the coupons of ordinary marketable bonds. But it is well recognized that to the economy of every country there may possibly come at some time or other a year of stress and difficulty. To make the economic scope of such a period the determinant of the maximum capacity in the ordinary course would be to fix a sum quite unacceptable to the creditors and an unreliable test of normal capacity to pay. It would be like fixing the standard of physical effort expected from a workman in his years of health and strength by what he is capable of doing in his occasional weeks of illness.

¶76. While our proposals have made full allowance for all normal and long-run considerations, it is possible that over exceptional and short periods the natural adjustment we contemplate might be insufficient. We have accepted the argument of the German Experts that in undertaking a responsibility of this character identical in its nature with the solemn covenants of a debtor on a commercial and financial basis Germany is well advised to consider carefully what are the limits of the burden which are possible for her final acceptance. We have, therefore, fully respected their scruples as to the undertakings they are prepared unconditionally to sign and have introduced a feature which can act as a safety valve in time of difficulty, viz.: a right of postponement on Germany's initiative of the transfer (and, to a less degree of payment) of a portion of the annuity. The range between the two figures (the unconditional portion and the total annuity) is not to be taken as evidence of doubt as to Germany's capacity of transfer (or of payment); it represents rather the concession that has been made to the honorable determination of the German Experts not to make themselves unconditionally responsible for any obligation which they are not certain is within their power of performance in all circumstances. It is, however, to be emphasized that the total amount of the annuity proposed, while being far from covering the claims set forth by the creditors, is one which they have every reason to believe can in fact be both paid and transferred by Germany. The fact that part of it is postponable obviates the danger of being above Germany's capacity to transfer in a period of difficulty, and it was the recognition of this principle which was one of the factors enabling the German Experts to accept this

scheme as an alternative not inconsistent with their original ideas.

¶77. In recommending that the system of deliveries in kind should be continued for a limited period and in decreasing amounts, we recognized, as is pointed out in Part 8 (*f*) of this report, the necessity for maintaining a transitional period so that all shock to existing economic conditions in Germany should be avoided. Germany's power to transfer is thus maintained unimpeded by the friction of sudden changes in trade conditions.

8. Annuities

¶78. THE COMMITTEE RECOMMENDS THAT:

¶79. (1) The Governments shall fix the exact date of termination of the Dawes Plan and the substitution therefor of the new Plan. In fixing such date the Governments should bear in mind that this committee's calculations were made on the basis that the Dawes Plan would cease on August 31, 1929, and the new Plan commence on September 1, 1929.

¶80. In case the Governments should fix a date later than September 1, 1929, it is recommended that financial adjustments shall be made so that the basis of payments provided for under the new Plan shall nevertheless commence as of September 1, 1929, and the basis of payments provided for under the Dawes Plan should cease as of August 31, 1929.

¶81. (2) Payments under the plan of the Dawes committee should continue until the end of the present scheduled year, that is to say, August 31, 1929.

¶82. (3) The new Plan should go into effect September 1, 1929, with the value of the 37 annuities of 1,988,800,000 Reichsmarks[1] until March 31, 1966, the payments for the Dawes loan to be added.

¶83.[2] (4) Payments to be made under the Dawes Plan, during the five months' period preceding September 1, 1929, after allowing for the Dawes loan, should be treated as payments necessary to cover the requirements of the creditor nations during this transition period, including outpayments for the year ending March 31, 1930.

¶84.[2] Should there remain any surplus after meeting the foregoing requirements, the question of disposing of such surplus, as

[1] The separate arrangement for payment of the American claims and costs reduces the average payable under the New Plan to 1,922,700,000 Reichsmarks, without affecting the total German liability.

[2] The financial agreement of August 31, 1929, provides for a partial allocation, see Art. I, p. 188 and p. 62.

well as all matters and expenses in connection with the transition from the operation of the existing arrangements to the new Plan, shall be settled and adjusted between the Governments.

¶85. (5) In order that the new annuities shall coincide with the German fiscal years, the schedule of payments to be made by Germany on and from September 1, 1929, will be as follows:

¶86.

		Reichsmarks	
	7 months, September 1, 1929–March 31, 1930	742,800,000	Constant annuity 37 years corresponding to 1,988,800,000, Dawes loan to be added.
36 German fiscal years	April 1, 1930–March 31, 1931	1,707,900,000	
	April 1, 1931–March 31, 1932	1,685,000,000	
	April 1, 1932–March 31, 1933	1,738,200,000	
	April 1, 1933–March 31, 1934	1,804,300,000	
	April 1, 1934–March 31, 1935	1,866,900,000	
	April 1, 1935–March 31, 1936	1,892,900,000	
	April 1, 1936–March 31, 1937	1,939,700,000	
	April 1, 1937–March 31, 1938	1,977,000,000	
	April 1, 1938–March 31, 1939	1,995,300,000	
	April 1, 1939–March 31, 1940	2,042,800,000	
	April 1, 1940–March 31, 1941	2,155,500,000	
	April 1, 1941–March 31, 1942	2,180,700,000	
	April 1, 1942–March 31, 1943	2,198,000,000	
	April 1, 1943–March 31, 1944	2,194,300,000	
	April 1, 1944–March 31, 1945	2,207,500,000	
	April 1, 1945–March 31, 1946	2,203,800,000	
	April 1, 1946–March 31, 1947	2,199,500,000	
	April 1, 1947–March 31, 1948	2,215,200,000	
	April 1, 1948–March 31, 1949	2,210,000,000	
	April 1, 1949–March 31, 1950	2,316,800,000	
	April 1, 1950–March 31, 1951	2,359,200,000	
	April 1, 1951–March 31, 1952	2,343,200,000	
	April 1, 1952–March 31, 1953	2,346,200,000	
	April 1, 1953–March 31, 1954	2,353,300,000	
	April 1, 1954–March 31, 1955	2,364,600,000	
	April 1, 1955–March 31, 1956	2,359,800,000	
	April 1, 1956–March 31, 1957	2,354,200,000	
	April 1, 1957–March 31, 1958	2,361,800,000	
	April 1, 1958–March 31, 1959	2,393,800,000	
	April 1, 1959–March 31, 1960	2,370,600,000	
	April 1, 1960–March 31, 1961	2,380,500,000	
	April 1, 1961–March 31, 1962	2,398,300,000	
	April 1, 1962–March 31, 1963	2,390,200,000	
	April 1, 1963–March 31, 1964	2,402,600,000	
	April 1, 1964–March 31, 1965	2,402,100,000	
	April 1, 1965–March 31, 1966	2,428,800,000	

¶87. Thereafter there remains the following schedule of payments to be made by Germany, subject to the special provisions dealing with these years:

¶88.

	Reichsmarks
1966–67	1,607,700,000
1967–68	1,606,900,000
1968–69	1,616,700,000
1969–70	1,630,000,000
1970–71	1,643,700,000
1971–72	1,653,900,000
1972–73	1,662,300,000
1973–74	1,665,700,000
1974–75	1,668,400,000
1975–76	1,675,000,000
1976–77	1,678,700,000
1977–78	1,685,400,000
1978–79	1,695,500,000
1979–80	1,700,400,000
1980–81	1,711,300,000
1981–82	1,687,600,000
1982–83	1,691,800,000
1983–84	1,703,300,000
1984–85	1,683,500,000
1985–86	925,100,000
1986–87	931,400,000
1987–88	897,800,000

¶89. Out of the above annuities the following amounts shall be unconditional, *i.e.*, payable without any right of postponement of any kind in foreign currencies by equal monthly instalments, viz.: 660,000,000 Reichsmarks per annum,[1] to include whatever amounts are required for the service of the German external loan 1924.

¶90. The remainder of the annuity shall be payable in foreign currencies by equal monthly instalments, but subject to the conditions as regards postponement of transfer and of payment set out in Annex IV of this plan.

¶91. The German Government undertakes for the purpose of the present provisions, as well as for the general purposes of the plan, that the Reichsmark shall have and shall retain its convertibility into gold or devisen as contemplated in Section 31 of the present Reichsbank law, and that for these purposes the Reichsmark

[1] Slightly increased by the conference, see Art. VII of the financial agreement of August 31, 1929, p. 190, and also p. 75.

shall have and shall retain a mint parity of 1/2790 kilogram of fine gold as defined in the German coinage law of August 30, 1924.[1]

¶92. For the purpose of par. (4) above, the outpayments for the year ending March 31, 1930, are as follows:

¶93.

	Equivalent in Reichsmarks
France	338,100,000
Great Britain	366,600,000
Italy [2]	107,800,000
Belgium	23,400,000
Rumania	8,800,000
Serbia	5,900,000
Greece [2]	5,300,000
Portugal	7,200,000
Total	863,100,000

¶94. Provision is made in Sec. 11 of Annex I [3] whereby a percentage of the special Reserve Fund accumulated in the bank shall be placed at Germany's disposal, if required, toward meeting the last 22 annuities payable under the above scale.

¶95. In calculating the above annuities we have taken into account the expenditures devolving upon Germany during the period of the new Plan, such as were covered by the Dawes Plan. However, we have not included the costs of commissions and the current expenses of occupation, as they are to continue only until a date to be fixed by the Governments. The necessary arrangements for their payments should be made by the Governments in connection with the adoption of the new Plan.

¶96. Apart from the foregoing, we recommend that, as from the date of the putting into force of this Plan, Germany's previous obligation shall be entirely replaced by the obligation laid down in this plan, and that the payment in full of the proposed annuities in accordance with this plan should be accepted by the creditor powers as a final discharge of all the liabilities of Germany, still remaining undischarged, referred to in Sec. XI of Part I of

[1] Annex II, which is not reprinted, is a letter from the president of the Reichsbank promising action by the Reichsbank to establish this standard for it.

[2] See Art. I of the financial agreement, p. 189.

[3] See note to Art. 54 of the Bank Statutes, p. 218.

the Dawes Plan,[1] as interpreted by the decisions[2] already given by the Interpretation Tribunal set up under the London agreement of August 30, 1924. That tribunal should be retained in existence and any dispute that may arise between Germany, on the one side, and the creditor Governments, or any one of them, or the bank, on the other side, as to the extent of these liabilities or as to any other question of the interpretation or application of this Plan should be referred to it for final decision.

¶97. In the course of their proceedings the experts of the principal creditor powers have also dealt with the question of the distribution of these annuities among the creditor powers. Their recommendations, drawn up after careful examination of the existing distribution arrangements and of other relevant considerations laid before them and with due regard to the rights and equities of the other countries[3] having a share in the Dawes annuities, are set out in Annex VII which they consider an inseparable part of the present Report.

COMPOSITION OF THE ANNUITIES

8 (a). Source and Securities.

¶98. *1.* The annuities are to be derived from two sources:

1. The German Railway Company.
2. The Budget of the Reich.

¶99. The committee, after a careful examination of the proposals put forward by the German Experts, were of the opinion that the annuities recommended by them should not be drawn wholly from the German budget, but that one source of payment utilized by the Dawes Plan, viz.: the Railway Company should be maintained. We desire to make it clear, however, that the retention of a contribution from the Railway Company is recommended not only from the point of view of security but also as a suitable method of raising the necessary revenue.

¶100. We have also considered the position with regard to the assigned revenues and, having regard to the fact that these revenues are pledged as collateral security for the service of the German external loan of 1924, we feel it is impossible to recommend the release thereof. Nevertheless, we are of opinion that it

[1] *Reparation*, Part V, p. 385; Reparation Commission, *Official Documents*, XIV, p. 30.

[2] See Awards, *American Journal of International Law*, XXI, p. 344 and XXII, p. 913.

[3] Greece, Portugal, Poland, Rumania, Serbia, Japan and the United States of America.

would be suitable for the German Government to discuss with the trustees for the bondholders of that loan the possibility of simplifying as far as possible the existing machinery, and that the creditor Governments for their part should accept a similar arrangement. The effective security of the creditor Governments should be substantially that indicated in Annex III, (Sec. III).[1]

¶101. Apart from these special questions, the committee desires to record its view that the basis of security for the payment of the annuities is the solemn undertaking of the German Government, to which no further guaranty can add anything whatsoever.

¶102. The committee accordingly recommends that the creditor Governments should take steps to release all controls, special securities, pledges or charges which may remain in their hands other than those specifically referred to above, and should recognize that their acceptance of the solemn undertaking of the German Government replaces any securities, pledges, charges or controls as may now exist.

¶103. *2. The Contribution from the German Railway Company.* Under the German railway law of August 30, 1924, enacted in accordance with the Dawes Plan, the German Railway Company is subject to a mortgage for eleven milliard gold marks, in favor of the trustee for the German railway bonds, and has issued to him a bond for eleven milliard gold marks. This bond bears interest at 5% per annum and carries a cumulative sinking fund of 1 per cent per annum, which first became operative on September 1, 1927; interest and sinking fund being guaranteed by the Government of the Reich.

¶104. This plan contemplates the abolition of the railway bonds, together with the attendant circumstances of foreign participation in the management of the railway, and substitutes a contribution from the Railway Company as set out in the following paragraphs:

¶105. The Railway Company shall be under an obligation to pay for 37 years a direct tax comprising if necessary the transport tax, to an annual amount of 660,000,000 Reichsmarks, being equal to the annual amount of the nonpostponable annuity. This tax shall be imposed by German legislation, and the receipts therefrom guaranteed by the German Government. The Railway Company shall deposit with the Bank for International Settlements a certificate acknowledging its liability in respect of this obligation.

[1] Not reprinted; but see final form in Trust Agreement, Art. XVI, p. 231.

¶106. The amount payable shall be raised from the gross revenues of the company, ranking after the expenditure on personnel, and on the same footing with expenditure on material and consumable stores. It shall enjoy priority over any other tax now levied on the Railway Company, or which may be levied in the future, and shall rank prior to any other charge, by way of mortgage or otherwise, on the company. It shall be paid direct by the Railway Company to the account of the Bank for International Settlements at the Reichsbank in instalments as laid down in Part 8.

¶107. The foregoing conditions shall be incorporated in the law governing the Railway Company.

¶108. It shall be one of the duties of the Organization Committee proposed in Annex V of this Report to make suitable provision whereby the private and independent character of the German Railway Company, including its autonomous administration in economic, financial and personnel matters shall continue for the period of the plan without interference from the German Government.[1]

¶109. *3. The Transport Tax.* In addition to the 660,000,000 gold marks now payable directly by the Railway Company, the Dawes Plan requires a contribution to the standard annuity of 290,000,000 gold marks out of the actual yield of the transport tax. This tax is imposed by the German Government and the German Railway Company collects it for the Government. The total yield of the transport tax, now considerably in excess of 290,000,000 gold marks, appears among the receipts of the budget of the Reich, and the contribution of 290,000,000 appears among its expenditures. Under this Plan the direct tax on the Railway Company comprises if necessary the transport tax which is otherwise relieved from any special charge on account of reparations.

¶110. *4. The Charge on German Industries.* Under the Industrial Charges Law enacted in accordance with the Dawes Plan, bonds aggregating 5,000,000,000 gold marks have been issued in respect of the German industries by the Bank for German Industrial Debentures to the trustee for the German industrial debentures. These bonds bear interest at 5% per annum and carry a cumulative sinking fund of 1% per annum which first became operative September 1, 1927, principal, interest and sinking fund being guaranteed by the Government of the Reich. The present con-

[1] Annexes IV, VI and VIA of the agreement of January 20, 1930, *Agreements*, p. 39, 45, 66.

tribution to the annuity from the industrial debentures thus amounts to 300,000,000 gold marks.

This particular charge in no way differs from ordinary taxation, save in the complications it involves in legislation and the machinery of collection. We recommend that it be discontinued and that its disappearance be taken into account in distributing the relief from taxation which this plan will enable the German Government to bring into effect.

¶111. *5. The Charge on the Budget of the Reich.* Under the Dawes Plan, the contribution from the budget of the Reich in the fifth or current annuity year amounts to 1,250,000,000 gold marks, or one-half of the total standard annuity. This contribution is a charge on the budget as a whole specifically secured by the assignment of the revenues from customs, beer, tobacco, sugar and alcohol to the Commissioner of Controlled Revenues. These revenues are paid by the collecting offices directly into the account of the commissioner at the Reichsbank. As early as practicable in each month, out of the funds accumulated in his account, the commissioner pays into the account of the Agent General at the Reichsbank one-twelfth of the annual contribution from the budget and thereafter in each month the revenues are automatically transferred by him to the account of the German Government at the Reichsbank. Under this plan the procedure to be followed will be worked out in detail, by the appropriate Organization Committee proposed in Annex V, regard being had so far as necessary to the arrangements which may be accepted by the trustees of the 1924 loan.[1]

¶112. As the amount contributed by the German Railway continues for 37 years at the fixed level of 660,000,000 Reichsmarks a year, the charge on the budget of the Reich varies with the total amount of the annuity. In the second year it stands at the figure of 1,136,400,000 Reichsmarks, and rises to a maximum of 1,768,800,000 Reichsmarks in the thirty-seventh year. Thereafter the contribution from the Railway Company ceases, the annuity falls sharply and the budget contribution covers the whole of the German liability for the remainder of the Plan.

¶113. The average increase in the budgetary contribution during the first 20 years is about 24,000,000 Reichsmarks annually, or about .24 of 1% of the total revenues of the budget of the Reich, which at present are just under 10,000,000,000. This moderate

[1] See Trust Agreement, Art. IV, p. 223.

and gradual increase in the budgetary contribution under the definitive settlement plan ought to be met in ordinary years without recourse to additional taxation. Indeed the substantial reduction of the budgetary contribution as compared with the Dawes Plan makes possible an immediate resumption of the tax reduction program which has been in progress since 1924. The committee hope that such further tax reductions coupled with a definitive reparation settlement will give a strong stimulus to saving and thereby materially assist in the internal formation of the new capital which Germany still requires.

8 (b). Progression

¶114. The authors of the Dawes Plan believed that they could count upon a certain substantial and progressive increase in the prosperity of Germany, arising not only from the employment of the rapidly increasing wealth of that country, but also from the steady progress of world prosperity, and this belief found expression in the device of an index of prosperity. The plan contemplates that the amounts which Germany pays upon a fixed scale shall increase generally speaking year by year until 1966, reflecting in some small measure this anticipated increase in her prosperity. However, the annuities proposed are to start at a level which not only gives immediate and important relief to the German budget, to her exchange position and to her need for additional internal formation of capital, as compared with the standard Dawes Annuity of 2,500,000,000 gold marks, but also provides the greatest possible assurance that the new scheme will function from the beginning without any hitch or disturbance.

8 (c). The Nonpostponable Annuities

¶115. Not the least difficult part of the task was the determination of the figure which Germany could immediately undertake as a final and unconditional obligation. The point at which difficulties might begin to arise in making transfers into foreign currencies is not exactly definable in advance; but every care has been taken to be so far within this limit as to remove every possibility of the risk of error. We recognize that in fixing the figure payable by Germany in foreign currencies, without any right of postponement whatever, at 660,000,000 Reichsmarks, [1] we have taken a conservative amount.

[1] For Hague conference adjustment of amount see p. 75.

But we are satisfied that it is wiser deliberately to underestimate than to run the slightest risk of weakening German credit by proposing a figure which might not command instant acceptance by well-informed public opinion.

8 (d). The Postponable Annuities

¶116. In addition to the unconditional part of the annuity, we propose a postponable part, transfer of which may, in certain circumstances set out below, be postponed for a period not exceeding two years.

¶117. This postponable part of the annuity is designed to meet the situation which might arise in a period of special economic difficulty and distress. There will be other ways of meeting such a situation, and if they are applied our view is that recourse to this abnormal measure will not in fact prove to be necessary. Nevertheless as an additional precaution it is valuable to Germany, and provides, by its very existence, a safeguard against the dangers which too rigid a framework might have called into existence.

8 (e). Measures of Safeguard

¶118. The essence of the additional margin of safety given to a part of the annuities lies in the power to postpone transfer. We are recommending, in order to protect Germany against the possible consequence of a comparatively short period of depression, which might, for internal or external reasons, put such a severe strain on the exchanges as would make the process of transfer abroad dangerous, that the German Government should have the right, on giving 90 days' notice, to postpone transfers for a period not exceeding two years under conditions set out in Annex IV.[1] During the period of postponement, the liability of the German Government with regard to the sums affected would in the first instance be limited to payment in Reichsmarks to the account at the Reichsbank of the Bank for International Settlements; under certain conditions part of this payment may also be withheld.

¶119. Upon the declaration of any postponement the Bank for International Settlements shall convene the Special Advisory Committee.[2] At any other time when the German Government declare to the creditor Governments and to the Bank for International

[1] Not reprinted; see for final form the Certificate of Indebtedness, V, 3–8, and Annex II, Appendix I, of the protocol of August 31, 1929, p. 191, 235.

[2] Enacted by Art. X of the Trust Agreement.

Settlements that they have come to the conclusion in good faith that Germany's exchange and economic life may be seriously endangered by the transfer in part or in full of the postponable portion of the annuities, the committee shall also be convened.

¶120. Upon being convened the Special Advisory Committee shall forthwith consider the circumstances and conditions which have led up to the necessity for postponement, or have created a situation in which Germany considers that her exchange and economic life may be seriously endangered by further transfers of the postponable portion of the annuity, and make a full investigation of Germany's position in regard to her obligations under this plan.

¶121. In their report to the Governments and to the Bank, having (in case of a postponement of transfer) satisfied themselves that the German authorities have used every effort in their power to fulfill their obligations, they shall indicate for consideration by the Governments and the Bank what in their opinion are the measures that should be taken in regard to the application of the present Plan.

¶122. It shall further be the duty of the Bank during a postponement of transfer to direct, in conjunction with the Reichsbank, the employment of the Reichsmarks paid to its account at the Reichsbank by the German Government (see Section VI of Annex I to this Report).[1]

¶123. The following paragraphs sketch the organization of the Special Advisory Committee of the Bank for International Settlements referred to in the preceding paragraphs:

¶124. 1. The committee should act in a purely consultative capacity. Its findings shall have no effective force unless confirmed and accepted by the Bank as trustee of the creditors, and if necessary by the Governments concerned.

¶125. 2. The committee shall play no part in connection with the unconditional annuity accepted by Germany and referred to in the Plan as the "unconditional annuity."

¶126. 3. The committee shall be convened by the Bank according to the rules of its own constitution when notice shall be received from the German Government. It shall not be required to meet at any other time.

¶127. 4. The committee shall consist of seven ordinary and four co-opted members. The ordinary members shall be nominated one by each of the following:

[1] Not reprinted; for final form see Arts. 20, 22, 23 and 25*e* of the Bank Statutes and note to Art. XI *c* of the Trust Agreement.

¶128. The governors of:
The Reichsbank,
The Banque de France,
The Bank of England,
The Banque Nationale de Belgique,
The Banca d'Italia,
The Bank of Japan,
A Federal Reserve Bank of the United States or some other agreed American financial institution,

¶129. in the last two cases, such nominee being ordinarily resident in Europe, or in a position to give prompt attendance on a meeting of the committee being called. These nominees of the Governors of the Banks shall not be officially connected with the banking institutions in question nor with the Government departments of their respective countries. After being summoned they may, if they so desire, co-opt not more than four additional members with the intent that special aspects, whether in finance, exchange, industry, etc., of the particular situation in question shall be represented. During the course of the proceedings and until the report is made, the co-opted members shall be equal in all other respects to the ordinary members but they shall thereafter be discharged from office.

¶130. 5. The committee may proceed by way of hearing evidence or asking for documents, as it may desire, but the president of the Reichsbank and/or any other person nominated by the German Government may appear before or submit to the committee the reasons for which a postponement has been declared or measures are desirable as indicated above.

¶131. The committee shall neither grant nor refuse a postponement. After making inquiry it shall report to the Governments and the Bank as indicated above.

¶132. 6. Unless otherwise arranged by consent the expenses of the Special Advisory Committee shall be borne by the German Government.

8 (f). Deliveries in Kind

¶133. The system of deliveries in kind under the Dawes Plan has come to play an important rôle in the economic life of Germany. We would not suggest the unlimited continuation of this system, which is open to many objections of a practical as well as a theoretical nature. We have felt, however, that its immediate cessation would not be in the interests of Germany or of the creditor powers,

and that it would impose difficulties upon the export trade of Germany which might be injurious to her capacity to transfer. We therefore recommend that the principles of the Dawes Plan with reference to deliveries in kind should continue in existence for a limited period, and that the creditor nations should agree for a period of ten years to absorb by this means in respect of each year, a limited and decreasing amount of the postponable portion of the annuity, substantially in accordance with the following table: ¶134.[1]

	Reichsmarks
First year	750,000,000
Second year	700,000,000
Third year	650,000,000
Fourth year	600,000,000
Fifth year	550,000,000
Sixth year	500,000,000
Seventh year	450,000,000
Eighth year	400,000,000
Ninth year	350,000,000
Tenth year	300,000,000

¶135. The foregoing table to be adapted to the actual annuities of the new Plan without increasing the total.[2]

¶136. The creditor powers by arrangements effected among themselves will fix the proportions in the total of each year's volume of deliveries in kind (including deliveries under Reparation Recovery Acts or any equivalent system substituted therefor by agreement up to 23.05% for Great Britain and 4.95% for France of the total amount provided for each year) which each of them will receive.

¶137. The Bank for International Settlements shall manage the disbursements on deliveries-in-kind account, and in making distributions of cash to the creditor countries shall have due regard for those portions of the annuity which are restricted to payments for deliveries in kind.[3]

¶138. The committee also recommends that new regulations be adopted by the Governments modifying the Wallenberg regulations to conform to the new Plan and so far as practicable simplifying and liberalizing them.

[1] Enacted by the protocol of August 31, Annex II, § II.

[2] See revised table at p. 184.

[3] Annex IX of the Hague agreement of January 20, 1930, *Agreements concluded at the Hague Conference, January, 1930*, p. 80.

¶139. The committee recommends that provision be made in the new regulations permitting the several powers to dispose of some part of their respective quotas of deliveries outside of their own territories under suitable restrictions.[1]

¶140. The proposed repartition of the deliveries in kind among the several creditor powers is contained in Annex VII, dealing with repartition of the annuities.[2]

9. Liquidation of the Past

¶141. In order to arrive as rapidly as possible at a general liquidation of the financial questions raised by the war and the subsequent treaty of peace, a liquidation which alone can insure the definite return of Europe to normal financial and economic conditions, the committee recommends the clearing up of these questions in a broad spirit of mutual concession.

¶142. We understand that a settlement on these lines will render obsolete the accounts between the Reparation Commission and Germany relating to transactions prior to the period of the Dawes Plan, together with all accounts involving credits against the original capital debt.[3] We are strongly of opinion that these accounts should be closed at the earliest moment.

¶143. The creditor Governments, under this plan, will be reducing the whole body of their claims arising out of the war or under the treaty of Versailles to a considerable extent. The experts of the creditor countries are aware that past transactions have given or may give rise to claims by Germany, some of which are still unsettled, and, while they are not able to go into the merits of these claims, they consider that the creditor Governments are fully entitled

[1] This was not realized; see p. 80, and Art IX of the regulations, *Agreements*, p. 93.

[2] See p. 182–186.

[3] Annex II of the agreement of January 20, 1930, provides:

"2 (i). Germany's previous obligation, except in respect of the German External Loan 1924, being entirely replaced by the obligation laid down in the New Plan, the German A, B and C bonds, the bonds of the Deutsche Reichsbahn-Gesellschaft, the German Industrial bonds and the bonds of the Bank für Deutsche Industrie Obligationen are finally canceled and shall be destroyed."

Beside provision for distributing closed account assets and settling expenses, a number of delayed settlements were dealt with in the arrangement between the creditor states of Germany (*Agreements*, p. 142). In addition to those specifically responding to recommendations of the Report, the following provisions were made: The shares of the Baghdad Railway Company held by the Reparation Commission are allotted outright to France, Great Britain and Italy in equal portions; the distribution of cables ceded by Germany by Part VIII, Annex VII, of the treaty of Versailles "will be settled by the creditor powers concerned." among which is the United States; payments already made by Denmark and Danzig in respect of German state property (treaty of Versailles, Art. 254) are a final settlement.

to expect that Germany should waive them in consideration of the consolidation of the creditors' claims at a reduced figure. Any other course would be inconsistent with their intention that, just as the new annuities cover all the claims defined in Part XI of the Dawes Plan, so they should be paid free of deduction in respect of any past transactions. The committee recognizes, however, that this is entirely a matter for the Governments to deal with.[1]

¶144. To assure the general confidence indispensable for the successful working of this Plan the committee recommends that the Governments make no further use, from the date of the acceptance of this report, of their right to seize, retain and liquidate property, rights and interests of German nationals or companies controlled by them in so far as not already liquid or liquidated or finally disposed of, and that the outstanding questions concerning such property should be definitively cleared up within one year after the coming into force of this plan by arrangements between the Governments concerned and Germany.[2] This recommendation, naturally, has no application in cases where special settlements have already been made.

¶145. The acceptance of this plan necessarily involves the dissolution of the joint liability of Germany on the one side with Austria, Hungary and Bulgaria on the other side for reparation, and therefore finally abolishes every obligation present or future in either direction which may result between these powers from this joint liability.[3]

¶146. The committee recommends in particular that the creditor powers should abstain from recovering the credits of Germany against her ex-allies referred to in Art. 261 of the treaty of Versailles, Germany for her part renouncing any net balance which might be due to her as a result of these credits.[4]

¶147. In their unanimous desire that the remaining financial questions arising out of the war should be settled as soon as possible, in order to promote the spirit of international harmony and collaboration, the Experts unanimously recommend to the creditor

[1] See Agreement of January 20, 1930, Art. III, B (*a*), p. 193.

[2] Effected by the agreements referred to at p. 124.

[3] The agreements with each effect this by making each debt individual and final.

[4] Annex II of the agreement of January 20, 1930, provides:

"2 (ii). The claims of Germany against Austria, Hungary and Bulgaria referred to in Art. 261 of the treaty of Versailles and the debts of Germany referred to in Arts. 213 of the treaty of St. Germain, 196 of the treaty of Trianon and 145 of the treaty of Neuilly are finally canceled and the securities and documents relating thereto shall be destroyed." (*Agreements*, Misc. No. 4, p. 30.)

Governments that, within the first year of operation of the new Plan, they complete the work of the Experts' Committee by dealing with and disposing of the claims and debts for ceded properties and liberation bonds, held in the hands of the Reparation Commission against the so-called succession states.[1] This question is referred to in Annex VII.

10. Commercialization and Mobilization

¶148. Having recommended the creation of the Bank for International Settlements in order to provide machinery for the removal of the reparation obligation from the political to the financial sphere, we have further considered what procedure is necessary in order to assimilate this obligation as closely as possible to an ordinary commercial obligation ("commercialization").

¶149. Further, certain Governments are known to attach particular importance to the possibility of raising money by the issue to the public of bonds representing the capitalization of the unconditional portion of the annuity ("mobilization").

¶150. It is, of course, not within our power to advise as to the time at which such issues can be made with advantage, or as to the terms and conditions on which issues should be made. The arrangements to be made would no doubt vary according as, for example, an issue is to be made for cash in the general interest of all the creditor Governments, or an internal issue is to be made in one single country by way of conversion of government debt. It will be the province of the bank itself to advise upon such matters; but we have thought it necessary to advise a framework within which these operations may take place.

¶151. This framework is given in Annex III.[2] It provides, first, that the annuities themselves shall be represented by a German Government certificate of indebtedness deposited with the bank, similar to those in use in ordinary commercial practice (a proper distinction being made in the coupons between the conditional and unconditional portions of the annuity). The provisions regarding security are given in the Annex, and the conditions in which mobilizable bonds should be created and issued are defined.

[1] Effected by the agreement with Czechoslovakia and the arrangement between the creditor powers (*Agreements*, p. 168, 142) described *supra*, p. 116.

[2] Not reprinted; for final form see Trust Agreement, Arts. XII and XVI, and the Certificate of Indebtedness, III, IV and V.

¶152. One of the most important provisions of this scheme is that annuity moneys should be distributed by the bank in strict proportion to the rights of each party — whether government or bondholder.

¶153. As far as, according to the conditions of the issue, reparation loans (general or conversion loans) are subject to an anticipated redemption, Germany should be entitled to redeem these loans; the part of the annuity destined for the service of the redeemed loan will then accrue to her. The wish has been expressed that so far as possible reparation loans will not be issued without granting the debtor an appropriate right of anticipated redemption.

¶154. We recommend that Germany should also have the right to redeem all or any part of not yet mobilized annuities on a basis of 5½% discount.

11. The New Plan Contrasted with the Dawes Plan

¶155. The Dawes Plan, although drawn up at a time of intense crisis, has by a test lasting over nearly five years justified by facts the postulates on which it was based as regards both the restoration of the public finances of Germany and her economic recovery.

¶156. It may be well to summarize briefly the points of advantage — whether to Germany or her creditors — claimed for the new proposal, which justify a departure from a scheme that has in the past rendered signal service.

¶157. The Plan drawn up by the committee to afford a definite solution of the reparation question accompanies a reduction in the existing obligations of Germany by an essential modification in their financial and political status. In so far as the creditors are relinquishing substantial advantages in the face value of payments due under the Dawes Plan, they are doing so only by reason of those improvements in intrinsic and available values which arise from the practicability and certainty of commercialization and mobilization within a reasonable period and in its attendant financial and economic psychology.

¶158. Among the modifications, which are considered specially important are the following:

¶159. *1. Fixation of the Period and the Debt.*

The Dawes Plan imposes, in virtue of the index of prosperity increasing annuities, of which the number is not fixed. The new program indicates a definite number of fixed annuities.

¶160. *2. Disappearance of the Index of Prosperity.*

Only estimates, which vary very widely, of the ultimate effect of the index of prosperity can at this date be made. But in no circumstances could Germany benefit therefrom, and the disappearance of this element of uncertainty is wholly to her benefit.

¶161. *3. Attainment of Financial Autonomy.*

Under the Dawes Plan Germany can only obtain the discharge of her obligations in marks by the existence of a system of transfer protection which involves a measure of external control. This brings attendant limiting effects on German credit and financial independence which render difficult, if not impossible, any mobilization of the German debt. The new Plan would be abandoning the fundamental purposes for which it was intended if it did not cancel this clause and leave to Germany the obligation of facing her engagements on her own untrammeled responsibility.

¶162. *4. Postponement Safeguards.*

Nevertheless, if an exceptional emergency interrupts the normal course of economic life to which the scheme is adapted, Germany can, on her own initiative, resort to certain measures of temporary relief.

¶163. The annuity is divided into two parts, of which one is subject to postponement of transfer and payment. Germany will thus be enabled under certain circumstances temporarily to relieve her balance of payments, and will in fact enjoy the advantages of a form of transfer protection without its attendant limitations.

¶164. *5. Deliveries.*

While the Dawes Plan reluctantly accepted the expedient of deliveries in kind, the new Plan, in spite of the desire of the creditor powers to dispose freely of their shares of the annuities, recognizes the undesirability of a sudden cessation of the system at present in force. The creditors are therefore to take deliveries in kind for ten years, but in decreasing amounts, beginning with 750,000,000.

¶165. *6. Mobilization.*

From the point of view of the creditor powers an essential feature of the new Plan which induces them to agree to reduction on their claims that leave them burdened with a considerable part of their expenditure for the damages caused by the war, is the fact that the annuity is paid in a form lending itself to mobilization.

¶166. *7. Financial Organization.*

The organization and machinery of the Dawes Plan were based on the conviction that it must find its proper guaranty in the interest of all parties to carry it out in good faith. In aiming as it did at the transference of the reparation payments from the political to the

economic and business sphere, it presumed constant cooperation of debtor and creditors alike. The new system goes further along the same road, replacing the collaboration of separate administrative and governmental organizations by common work in a purely financial institution, in the management of which Germany is to have an appropriate part. The present administrative organizations can not have all the elasticity necessary for banking transactions of the magnitude of the payment and transfer of the annuities; but the new Bank in close association with the banks of issue and with the banking facilities at its command will have all the necessary means of effecting these operations without disturbance to the German economy or to the economy of other countries. In addition, it will be in a position to open up to trade new possibilities of development. The operations which it is to undertake can not be disturbed or hampered without irreparable damage to the credit of the countries concerned. This assurance should make it possible to limit the guaranties established under the present system for the protection of the rights of the creditors, to the minimum required for the prompt and facile commercialization of the mobilizable part of the annuity.

¶167. 8. *Summary.*

The proposed plan continues and completes the work begun by the Dawes Plan, which the position alike of Germany and of the other countries made it impossible to do more than indicate in outline in 1924. By the final reduction and fixation of the German debt, by the establishment of a progressive scale of annuities, and by the facilities which the new bank offers for lessening disturbance in the payment of the annuities, it sets the seal on the inclusion of the German debt in the list of international settlements. If it involves appreciable reduction of payments to the creditor countries on what might have been anticipated under the continued operation of the Dawes Plan, it at the same time eliminates the uncertainties which were inherent in that Plan and were equally inimical to the interest of the debtor and to the creditors, by substituting a definite settlement under which the debtor knows the exact extent of his obligations.

12. Conclusions

¶168. It has been our object to make proposals for financial obligations, which, with the conditions and safeguards that accompany them, shall be within Germany's capacity to pay, and we believe that we have achieved this purpose. We realize the re-

sponsibility of this declaration, and we recognize how much depends on the future attitude toward one another of the peoples which, by ratification of their respective Governments, are to become parties to this agreement. For the solution of the reparation problem is not only a German task but in the common interest of all the countries concerned; and it requires the cooperation of all parties. If their attitude should be tinged with antagonism, even with suspicion, or a desire to create or continue one-sided economic discriminations, a settlement perfectly feasible with good-will would sooner or later encounter difficulties, so that the long, slow, patient task of reconstruction in Europe would be definitely retarded. For without good faith and mutual confidence, all agreements, all guaranties are unavailing. If, on the other hand, our proposals are adopted with good-will by all concerned, and the rest of the world has confidence in the constructive value of this mutual accord, then indeed there can be no reasonable doubt that the agreement will be capable of complete fulfilment, and the nations it concerns will be brought to a higher level of economic stability and of mutual understanding than ever before.

¶169. Finally, we would point out, like our predecessors on the Dawes Committee, that:

We regard our report as an indivisible whole. It is not possible, in our opinion, to achieve any success by selecting certain of our recommendations for adoption and rejecting the others, and we would desire to accept no responsibility for the results of such a procedure nor for undue delay in giving execution to our Plan.

PARIS, June 7th, 1929.

FRANCQUI.
GUTT.
E. MOREAU.
J. PARMENTIER.
Dr. HJALMAR SCHACHT.
KASTL.
J. C. STAMP.
C. ADDIS.
A. PIRELLI.
SUVICH.
KENGO MORI.
TAKASHI AOKI.
OWEN D. YOUNG.
J. P. MORGAN.
THOMAS N. PERKINS.
T. W. LAMONT.

II. ANNEXES

ANNEX I. Suggested Outline for the Organization of the Bank for International Settlements [pars. 1–120].

[The Charter, Statutes and Trust Agreement prepared by the Organization Committee embody completely the provisions set forth by the Committee of Experts in this Annex, except that it altered the detailed requirements for reserves and laid down general rules for deposits.]

ANNEX II. [Definition of Reichsmark, pars. 121–122.]

ANNEX III. Mobilization [pars. 123–146].

ANNEX IV. Conditions of Postponement of Transfer and of Payment [pars. 147–154].

[The substance of these Annexes is incorporated in the text of the Certificate of Indebtedness and the Trust Agreement.]

ANNEX V. Organization Committees [pars. 155–166].

[Execution of the provisions is described in the narrative.]

ANNEX VI. The Belgian Mark Claim [pars. 167–187].

[See narrative, p. 135; text of agreement of July 13, 1929, in *Entwürfe zu den Gesetzen*, p. 311, and exchange of notes of January 20, 1930, *Agreements*, p. 140.]

Annex VII

¶188. Distribution of the Annuities Proposed by the Experts of the Creditor Countries Represented on the Committee

1. We recommend that the Annuities set out in Part 8 of this Report should be distributed among the creditor powers as follows:

(Millions of Reichsmarks)

German Financial Year	France	British Empire	Italy	Belgium	Rumania	Serbia	Greece	Portugal	Japan	Poland	U. S. A.	Total
1929–30[1] .	418.8	53.1	42.5	70.7	–	72.1	–	6.0	13.2	0.5	65.9	742.8
1930–31 . .	900.7	366.8	156.0	98.2	10.0	79.4	3.6	13.2	13.2	0.5	66.3	1,707.9
1931–32 . .	838.4	362.0	190.8	102.6	12.0	79.3	6.7	13.2	13.2	0.5	66.1	1,685.0
1932–33 . .	879.8	364.5	196.3	105.3	13.0	79.4	6.9	13.2	13.2	0.5	66.1	1,738.2
1933–34 . .	879.1	454.8	192.4	100.3	13.9	72.4	7.2	12.6	11.9	0.4	59.4	1,804.3
1934–35 . .	941.8	450.1	193.6	102.8	14.7	72.5	7.2	12.6	11.9	0.4	59.4	1,866.9
1935–36 . .	962.8	444.9	195.2	110.0	16.1	72.6	7.2	12.6	11.9	0.4	59.4	1,892.9
1936–37 . .	1,004.1	438.1	197.2	116.9	17.2	73.8	8.2	12.6	11.9	0.4	59.4	1,939.7
1937–38 . .	1,031.8	452.6	198.6	114.7	18.3	71.5	8.3	12.4	11.4	0.4	57.2	1,977.0
1938–39 . .	1,052.4	447.1	200.2	114.8	19.1	71.8	8.5	12.4	11.4	0.4	57.2	1,995.3
1939–40 . .	1,087.3	442.5	204.1	117.0	23.7	74.5	8.4	13.6	11.9	0.4	59.4	2,042.8
1940–41 . .	1,179.9	457.1	211.5	117.1	20.1	76.1	8.4	13.6	11.9	0.4	59.4	2,155.5
1941–42 . .	1,171.2	456.3	223.1	123.9	20.0	83.9	8.3	14.2	13.2	0.5	66.1	2,180.7
1942–43 . .	1,191.4	446.0	225.5	124.1	20.6	88.2	8.3	14.2	13.2	0.5	66.1	2,198.0
1943–44 . .	1,190.8	439.8	227.8	124.2	21.1	88.3	8.3	14.2	13.2	0.5	66.1	2,194.3

[1] The year 1929–30 comprises only the seven months September, 1929, to March, 1930.

Annex VII — *Concluded.*

(Millions of Reichsmarks)

German Financial Year	France	British Empire	Italy	Belgium	Rumania	Serbia	Greece	Portugal	Japan	Poland	U. S. A.	Total
1944–45 . .	1,190.7	450.5	230.5	123.9	21.1	88.5	8.3	14.2	13.2	0.5	66.1	2,207.5
1945–46 . .	1,190.8	439.1	233.3	124.0	25.7	88.7	8.3	14.2	13.2	0.5	66.1	2,203.8
1946–47 . .	1,188.1	432.4	235.6	124.1	28.4	88.7	8.3	14.2	13.2	0.5	66.1	2,199.5
1947–48 . .	1,185.2	446.6	237.1	124.1	31.2	88.8	8.3	14.2	13.2	0.5	66.1	2,215.2
1948–49 . .	1,185.1	439.1	239.4	124.2	31.2	88.8	8.3	14.2	13.2	0.5	66.1	2,210.0
1949–50 . .	1,248.6	439.6	248.1	134.6	31.1	99.8	8.1	15.1	15.2	0.6	76.1	2,316.8
1950–51 . .	1,277.9	440.5	260.1	134.7	31.1	99.9	8.1	15.1	15.2	0.6	76.1	2,359.2
1951–52 . .	1,248.5	441.1	272.8	134.7	31.1	100.0	8.1	15.1	15.2	0.6	76.1	2,343.2
1952–53 . .	1,248.3	441.4	275.6	134.7	31.1	100.0	8.1	15.1	15.2	0.6	76.1	2,346.2
1953–54 . .	1,248.2	445.6	278.5	134.7	31.1	100.1	8.1	15.1	15.2	0.6	76.1	2,353.3
1954–55 . .	1,248.1	453.6	281.3	134.7	31.1	100.7	8.1	15.1	15.2	0.6	76.1	2,364.6
1955–56 . .	1,248.2	444.2	285.4	134.7	31.1	101.2	8.1	15.1	15.2	0.6	76.1	2,359.8
1956–57 . .	1,248.1	434.7	289.0	134.9	31.1	101.2	8.1	15.1	15.2	0.6	76.1	2,354.2
1957–58 . .	1,278.6	407.3	292.6	134.9	31.1	102.2	8.1	15.1	15.2	0.6	76.1	2,361.8
1958–59 . .	1,302.8	410.2	296.7	134.8	31.1	103.1	8.1	15.1	15.2	0.6	76.1	2,393.8
1959–60 . .	1,278.4	408.3	299.8	134.8	31.1	103.2	8.1	15.1	15.2	0.6	76.1	2,370.6
1960–61 . .	1,278.2	406.1	310.8	134.7	31.1	104.5	8.1	15.1	15.2	0.6	76.1	2,380.5
1961–62 . .	1,278.2	412.0	321.5	134.5	31.1	105.9	8.1	15.1	15.2	0.6	76.1	2,398.3
1962–63 . .	1,278.1	400.5	324.8	134.8	31.1	105.9	8.1	15.1	15.2	0.6	76.1	2,390.2
1963–64 . .	1,278.0	410.1	327.8	134.6	31.1	106.0	8.1	15.1	15.2	0.6	76.1	2,402.6
1964–65 . .	1,277.9	406.3	331.0	134.9	31.1	106.0	8.1	15.1	15.2	0.6	76.1	2,402.1
1965–66 . .	1,297.5	410.6	334.0	134.5	31.1	106.0	8.1	15.1	15.2	0.6	76.1	2,428.8

Average, 1929–65 .	1,046.5	409.0	213.7	115.5	20.1	84.0	7.0	13.2	13.2	0.5	66.1	1,988.8
1966–67 . .	794.2	357.2	290.1	53.1	31.7	22.7	9.7	8.2	–	–	40.8	1,607.7
1967–68 . .	794.1	346.7	295.1	52.8	36.8	22.7	9.7	8.2	–	–	40.8	1,606.9
1968–69 . .	790.9	349.4	302.3	53.0	39.8	22.7	9.7	8.2	–	–	40.8	1,616.7
1969–70 . .	787.7	355.7	309.3	53.1	42.9	22.7	9.7	8.2	–	–	40.8	1,630.0
1970–71 . .	787.5	361.2	317.6	53.2	42.9	22.7	9.7	8.2	–	–	40.8	1,643.7
1971–72 . .	787.3	361.8	327.7	52.8	42.9	22.7	9.7	8.2	–	–	40.8	1,653.9
1972–73 . .	787.1	366.1	332.0	52.8	42.9	22.7	9.7	8.2	–	–	40.8	1,662.3
1973–74 . .	786.9	365.4	336.3	52.8	42.9	22.6	9.7	8.2	–	–	40.8	1,665.7
1974–75 . .	786.8	364.1	340.5	52.8	42.9	22.6	9.7	8.2	–	–	40.8	1,668.4
1975–76 . .	786.6	366.4	344.6	53.2	42.9	22.6	9.7	8.2	–	–	40.8	1,675.0
1976–77 . .	786.3	363.8	350.8	53.5	42.9	22.6	9.7	8.2	–	–	40.8	1,678.7
1977–78 . .	786.1	364.8	356.9	53.3	42.9	22.6	9.7	8.2	–	–	40.8	1,685.4
1978–79 . .	785.9	365.1	367.1	53.2	42.9	22.6	9.7	8.2	–	–	40.8	1,695.5
1979–80 . .	785.7	364.7	372.9	52.9	42.9	22.6	9.7	8.2	–	–	40.8	1,700.4
1980–81 . .	785.5	363.5	385.1	53.1	42.9	22.6	9.7	8.2	–	–	40.8	1,711.3
1981–82 . .	785.2	365.7	400.1	53.3	42.9	22.6	9.7	8.2	–	–	–	1,687.6
1982–83 . .	785.0	362.9	407.2	53.4	42.9	22.6	9.7	8.2	–	–	–	1,691.8
1983–84 . .	784.7	372.0	409.8	53.4	42.9	22.6	9.7	8.2	–	–	–	1,703.3
1984–85 . .	784.4	346.2	416.5	53.0	42.9	22.6	9.7	8.2	–	–	–	1,683.5
1985–86 . .	784.1	−414.1 [1]	418.8	53.0	42.9	22.6	9.7	8.2	–	–	–	925.1
1986–87 . .	783.9	−414.1 [1]	425.0	53.3	42.9	22.6	9.7	8.2	–	–	–	931.4
1987–88 . .	753.3	−372.1 [1]	382.6	50.6	42.9	22.6	9.7	8.2	–	–	–	897.8

[1] These sums correspond to the excess war debt receipts of Great Britain over war debt payments during these three years.

¶189. 2. We recommend that out of the unconditional annuity of 660,000,000 Reichsmarks the amount of 500,000,000 Reichsmarks should be allocated to France subject to the provision of a Guaranty Fund by the French Government in accordance with the arrangements set out in Annex VIII. Out of the remainder of the unconditional annuity, after allowing for the service of the Dawes loan, 42,000,000 Reichsmarks will be apportioned to Italy. So far as concerns the balance of the unconditional annuity,[1] and the amounts by which it is increased as the requirements for the service of the Dawes loan become less and cease, Italy will have no claim until so much of the balance as may be required for an equitable apportionment shall have been allotted, by agreement of all the Governments, to the remaining powers entitled to share in the annuities provided for by this Plan.

¶190. 3. The schedule of deliveries in kind set out in Part 8 (*f*) shall be allocated among the creditor Governments as follows:[2]

[1] The remaining amount was apportioned by par. 2 of the protocol of August 31, 1929; see p. 75–76.

[2] The table is shown in its successive stages; see also p. 80–85.

Years	Total	France[1] 54.45%	Britain 23.05%	Italy[1] 10%	Belgium 4.5%	Japan 0.75%	Serbia 5%	Portugal 0.75%	Rumania 1.10%	Greece 0.40%
First . .	750	(408.4) 430.9	172.9	(75.0) 52.5	33.7	5.6	37.5	5.6	8.3	3.0
Second . .	700	(381.2) 398.7	161.4	(70.0) 52.5	31.5	5.2	35.0	5.2	7.7	2.8
Third . .	650	(353.9) 366.4	149.8	(65.0) 52.5	29.2	4.9	32.5	4.9	7.2	2.6
Fourth . .	600	(326.7) 334.2	138.3	(60.0) 52.5	27.0	4.5	30.0	4.5	6.6	2.4
Fifth . .	550	(299.5) 302.0	126.8	(55.0) 52.5	24.7	4.1	27.5	4.1	6.1	2.2
Sixth . .	500	(272.3) 269.8	115.3	(50.0) 52.5	22.5	3.7	25.0	3.7	5.5	2.0
Seventh . .	450	(245.0) 237.5	103.7	(45.0) 52.5	20.2	3.4	22.5	3.4	5.0	1.8
Eighth . .	400	(217.8) 205.3	92.2	(40.0) 52.5	18.0	3.0	20.0	3.0	4.4	1.6
Ninth . .	350	(190.6) 173.1	80.7	(35.0) 52.5	15.7	2.6	17.5	2.6	3.9	1.4
Tenth . .	300	(163.3) 140.8	69.1	(30.0) 52.5	13.5	2.3	15.0	2.3	3.3	1.2

[1] As modified by the Annex to Appendix 2 of the protocol of August 31, 1929.

Table showing the Distribution of Deliveries in Kind among the Creditor Powers [1]

(Replacing the table of par. 190 of Annex VII to the Experts' Plan and that of the Annex to Appendix 2 to Annex II of The Hague Protocol of August 31, 1929)

(In thousands of Reichsmarks)

	France			Great Britain Rec. Act	Italy	Belgium
	Deliveries	Rec. Act (4.95%)	Total			
Transition régime (1. IX. 29–31. III. 30)	272,293.0	21,507.0	293,800	46,036.00	37,000	24,500.00
Year of deliveries in kind (1. IV. 30–31. III. 31)	364,090.4	36,609.6	400,700	190,964.00	52,500	33,750.00
Second year (1931–32)	305,540.0	32,860.0	338,400	186,638.70	52,500	31,500.00
Third year (1932–33)	306,180.6	30,219.4	336,400	140,718.85	52,500	29,250.00
Fourth year (1933–34)	304,506.3	29,693.7	334,200	138,270.60	52,500	27,000.00
Fifth year (1934–35)	274,773.4	27,226.6	302,000	126,782.50	52,500	24,750.00
Sixth year (1935–36)	225,977.9	23,182.1	249,160	107,948.70	52,500	20,837.50
Seventh year (1936–37)	196,314.9	20,545.1	216,860	95,669.70	52,500	17,756.25
Eighth year (1937–38)	166,674.6	17,985.4	184,660	83,750.10	52,500	14,675.00
Ninth year (1938–39)	137,124.4	15,335.6	152,460	71,411.25	52,500	11,593.75
Tenth year (1. IV. 39–31. VIII. 39)	45,274.5	4,710.5	49,985	21,934.60	15,500	637.50
Total	2,598,750.0	259,875.0	2,858,625	1,210,125.00	525,000	236,250.00

[1] Appendix I to Regulations for Deliveries in Kind, Annex IX to Agreement of January 20, 1930, *Agreements*, p. 98.

Table showing the Distribution of Deliveries in Kind among the Creditor Powers — Continued

(Replacing the table of par. 190 of Annex VII to the Experts' Plan and that of the Annex to Appendix 2 to Annex II of The Hague Protocol of August 31, 1929)

(In thousands of Reichsmarks)

	Japan	Yugo-slavia	Portu-gal	Ru-mania [1]	Greece	Total Deliveries	Rec. Act	Total
Transition régime (1. IX. 29–31. III. 30)	2,550	26,000	4,600	–	–	366,943.00	67,543.00	434,486.00
Year of deliveries in kind (1. IV. 30–31. III. 31)	5,625	37,500	6,548	9,000	3,000	512,013.40	227,573.60	739,587.00
Second Year (1931–32)	5,250	35,000	4,800	6,950	2,800	444,340.00	219,498.70	663,838.70
Third year (1932–33)	4,875	32,500	4,500	7,150	2,600	439,555.60	170,938.25	610,493.85
Fourth year (1933–34)	4,500	30,000	4,402	6,600	2,400	431,908.30	167,964.30	599,872.60
Fifth year (1934–35)	4,125	27,500	4,125	6,050	2,200	396,023.40	154,009.10	550,032.50
Sixth year (1935–36)	3,750	23,300	3,328	5,500	2,000	337,193.40	131,130.80	468,324.20
Seventh year (1936–37)	3,375	19,400	2,742	4,950	1,800	298,838.15	116,214.80	415,052.95
Eighth year (1937–38)	3,000	16,600	2,156	4,400	1,600	261,605.60	101,735.50	363,341.10
Ninth year (1938–39)	1,825	13,200	1,570	3,850	1,400	223,063.15	86,746.85	309,810.00
Tenth year (1. IV. 39–31. VIII. 39)	500	1,500	604	3,300	1,200	68,516.00	26,645.10	95,161.10
Total	39,375	262,500	39,375	57,750	21,000	3,780,000.00	1,470,000.00	5,250,000.00

[1] If the Rumanian Government and the German firms subsequently agree that the quota fixed in respect of a given period shall be exceeded, a corresponding reduction shall be applied by agreement between the German and Rumanian Governments to the other annuities. The distribution in respect of the other Powers shall, however, not be changed.

¶191. Proceeds of Reparation Recovery Acts already in force, or of systems substituted therefor by agreement with the German Government, shall be reckoned as deliveries in kind for this purpose.[1]

¶192. 4. The sums received under the Dawes Plan in respect of the period April 1 to August 31, 1929, shall, after allowing for expenses in respect of administration of the Dawes Plan and armies of occupation, be redistributed to the extent necessary to provide each of the creditor powers with cover for its net debt outgoings during the year ending March 31, 1930 (these outgoings are as stated in Part 8 of the Report). The necessary adjustments for this purpose could be made against the payments during the last seven months of that year.[2]

¶193. 5. It is suggested that the division between the creditor Governments proposed in the present Annex should be accepted as a definitive settlement of all questions relating to the distribution of German payments and should not be affected by any existing arrangements or by the result of accounts relating to past transaction.

¶194. On the other hand it is not suggested that the present Plan should affect or disturb in any way any existing interallied agreements relating to payments, cessions or deliveries on the part of the powers formerly allied with Germany. It may, however, prove necessary to examine any provisions of these agreements under which receipts by the creditor powers could be accounted

[1] See the British and French agreements of January 2 and 18, 1930, Annex X to the agreement of January 20, *Agreements*, p. 100.

[2] See Art. I of the financial agreement (Annex I of the protocol of August 31), p. 189, and p. 61.

It is provided by the arrangement between the creditor powers (*Agreements*, p. 143):

"For the application of par. 192 of the Annexes to the Experts' Report, a sum of 118,100,000 Reichsmarks will be handed over to Great Britain, Italy and Greece out of the receipts in respect of the last five months of the Dawes Plan.

"This payment will be divided as follows:

	Reichsmarks
Great Britain	102,000,000
Italy	14,800,000
Greece	1,300,000

"It will be charged on the excesses of the various Powers in the following amounts:

	Reichsmarks
France	89,380,446
Belgium	12,014,283
Japan	2,527,350
Yugoslavia	13,021,695
Portugal	134,661
Rumania	912,920
Poland	108,645"

for as between themselves in terms of German C Bonds in order that they may be given an application consistent with their original practical purpose.

¶195. 6. The approval of the Report by the Experts of the principal creditor countries is made formally contingent on this distribution.

Annex VIII. Guaranty Fund in Respect of Unconditional Annuities

¶196. 1. The Experts of the principal creditor Governments have agreed that there shall be assigned to France out of the unconditional annuity 500,000,000 Reichsmarks, in order to allow her to mobilize a substantial part of her share in the total annuity.

¶197. The aforesaid experts consider that this assignment should be final, and in no case subject to diminution, but should continue to be included in the total assigned to France subject only to the alteration contemplated in the Special Memorandum signed concurrently with the Report of this Committee.

¶198. 2. In order to equalize the short payments to other creditors which would arise from a postponement of the postponable portion of the annuity, it was agreed that France should deposit a special guarantee fund with the Bank for International Settlements.

¶199. 3. On the coming into force of this Plan, France will give to the Bank for International Settlements an undertaking to deposit in a Trust Fund, on the demand of the Bank for International Settlements foreign currencies to a total value of 500,000,000 Reichsmarks. It is understood that this demand will not be made until action has been taken leading to the calling of the Advisory Committee referred to in Part 8 (*e*) of the Report. The amount of 500,000,000 Reichsmarks will be reduced by the amount of any payments made by France under par. 4 below. The Bank for International Settlements may retain this deposit as long as it deems necessary, but shall pay interest on it at its maximum current rate for long-term deposits. This deposit, if it is agreed that it shall remain for more than five years, shall be entitled to participate in the profits of the Bank divisible under Section XI, 5 of Annex I. [1]

¶200. 4. As soon as mobilization of any part of the French annuity has been effected, France will deduct from the proceeds

[1] See Art. 53*e* of the Statutes of the Bank.

10% thereof, or 500,000,000 Reichsmarks, whichever is the less, and will deposit it to the credit of the Trust Account of the Bank for International Settlements referred to in the preceding paragraph.

¶201. 5. Upon postponement of transfer of any payment due from Germany, the Bank for International Settlements shall take the following steps:

¶202. (*a*) offer to the creditors, other than France, devisen up to the amount necessary (but not exceeding 500,000,000 Reichsmarks divided if necessary proportionately) to insure to each of them receipts in devisen equal to the amounts they would have received had the non-postponable annuity been distributed in the same proportions as the total annuity;

¶203. (*b*) debit the Trust Fund set up under par. 2 above with the amount of devisen actually utilized under § (*a*);

¶204. (*c*) receive from each creditor, in exchange for devisen accepted under § (*a*), an assignment in favor of the Trust Fund of an equivalent amount of the annuity, transfer of which has been postponed.

¶205. 6. As and when Germany effectively transfers the postponed amounts, the Bank will credit to the Trust Fund its share thereof in accordance with the assignment in par. 5 (*c*) above.

2. PROTOCOL APPROVED AT THE PLENARY SESSION OF THE HAGUE CONFERENCE HELD ON AUGUST 31, 1929[1]

[The protocol itself deals almost exclusively with transitional details respecting the necessary committees and the reconvening of the conference (*supra*, p. 35). The permanent part of the protocol is Art. 2, which "accepted the said Plan in principle" and distributed the unallotted remainder of the nonpostponable annuity (see p. 75). The permanent portions of the annexes are given below:]

Annex I. Financial Agreement between the Belgian, British, French, Italian and Japanese Delegations, and the German Delegation, in so far as Germany is concerned

The Belgian, British, French, Italian and Japanese Delegations, and the German Delegation, in so far as Germany is concerned, have agreed on the following arrangements with a view to securing the approval in principle of the Experts' Report, viz.: —

[1] British Parliamentary Papers, Miscellaneous No. 5 (1929), Cmd. 3392.

I. In accordance with pars. 83 and 84[1] of the Experts' Report of June 7, 1929, and par. 192[2] of the Annexes, Great Britain will receive, out of the payments due by Germany in respect to the last five months of the fifth Dawes Annuity, the amount (estimated at 100 million gold marks) which is required together with her receipts under the Dawes Plan, to cover in full her net debt outgoings during the year ending March 31, 1930, and the current costs of the British Army of Occupation up to August 31, 1929.

In pursuance of the same provisions, Italy and Greece will receive the sums required to cover in full their debt outgoings during the year ending March 31, 1930, as defined in par. 93[3] of the Experts' Report.

II. Save as provided in the preceding article, Germany, Great Britain, Italy and Japan make, and will make, no claim on the sums paid or payable by Germany in respect of the last five months of the fifth Dawes Annuity, including the sum of about 79,000,000 gold marks due in September, 1929.

In return Belgium and France guarantee to Great Britain to the extent of their liability the payments for which they are responsible in accordance with Art. III below.

III. The Belgian and French Governments guarantee without reserve the payment to Great Britain, in addition to the annuities allocated to her by the Experts' Report, of an annuity of 19,800,000 Reichsmarks for 37 years as from 1929,[4] to be paid in sterling in such instalments as may be agreed. The division of this annuity between the French and Belgian Governments will be the subject of a special agreement between them, which will be communicated to the British Government.[5]

IV. Italy having undertaken to apply in favor of Great Britain a part of the claims to which she is entitled under the Agreements of September 10, 1919, and December 8, 1919, in regard to the costs of liberation and the ceded properties, guarantees to Great Britain

[1] P. 158.

[2] P. 186.

[3] Table, p. 161.

[4] Of which 16,650,000 Reichsmarks by France and 3,150,000 by Belgium. (Arrangement between the creditor powers, 9, *Agreements*, p. 144).

[5] It is provided by the arrangement between the creditor powers (*Agreements*, p. 144): "8. The annuities provided by Arts. III and IV of Annex I of the Hague Protocol of August 31, 1929, shall be paid in two equal instalments on July 1 and January 1 in each year, from July 1, 1930, to January 1, 1966. For the current year, in the absence of any different arrangement, the whole amount shall be paid on March 15, 1930, with interest at 5½% from October 1, 1929."

without reserve a further annuity of 9,000,000 Reichsmarks for 37 years, as from 1929, to be paid in sterling in such instalments as may be agreed.[1]

V. For the purposes of the two preceding articles, the Reichsmark is defined as in par. 91[1] of the Experts' Report and in the letter from Dr. Schacht dated June 6, 1929 (Annex II to Experts' Report).

VI. It is agreed that the payments due to each of the Creditor Governments in respect of their net war debts shall be made by the Bank for International Settlements on the dates fixed by the various funding agreements for the payment of the war debt annuities.[2]

VII. The amount of the unconditional annuity provided for in par. 89[2] of Chap. VIII of the Experts' Report shall be fixed at 612,000,000 Reichsmarks a year (excluding whatever sums are required for the service of the German External Loan, 1924). Out of the balance of the unconditional annuity not distributed by the Experts' Report, 55,000,000 Reichsmarks a year will be allocated to the British Empire, and 6,600,000 Reichsmarks to Japan.

HENRI JASPAR, *President.*

M. P. A. HANKEY,
Secretary-General.

Annex II. Agreement regarding Deliveries in Kind

(Excerpt)

I. [Provides for drawing up new regulations for deliveries in kind[3] under par. 138 of the Experts' Report and that they shall not contain permission to export in the manner provided for in par. 139.]

[1] It is provided by the arrangement between the creditor powers (*Agreements*, p. 144):
"8. The annuities provided by Arts. III and IV of Annex I of the Hague Protocol of August 31, 1929, shall be paid in two equal instalments on July 1 and January 1 in each year, from July 1, 1930, to January 1, 1966. For the current year, in the absence of any different arrangement, the whole amount shall be paid on March 15, 1930, with interest at 5½% from October 1, 1929."

[2] It is provided by the arrangement between the creditor powers (*Agreements*, p. 144):
"7. In order to give effect to Art. VI of Annex I of the Protocol of August 31, 1929, the French and Italian Governments agree to pay to Great Britain during each of the 36 financial years commencing April, 1930, the annuities provided for in their respective War Debt Funding Agreements by equal monthly instalments on the 15th of each month, instead of in half-yearly instalments on September 15 and March 15 of each year.
"The dates of the release of the Italian gold deposit provided for in Art. 7 of the Anglo-Italian War Debt Funding Agreement will be similarly modified."
For the agreements referred to see Parliamentary Papers, Cmd. 2580 and 2692.

[3] Not reprinted; see *Agreements*, p. 80.

II. The Belgian, British, French, Italian and Japanese Governments agree that the British and French Governments have the right to a Reparation (Recovery) Act levy *pari passu* with any Deliveries in Kind, including those furnished under a moratorium, that is to say, that of the total amount transferred in any year in Deliveries in Kind (including the quotas under the Reparation Recovery Acts), the quota under the British Reparation (Recovery) Act will amount to 23.05% and the quota under the French Reparation (Recovery) Act to 4.95%. The German Government makes a reserve in so far as concerns the possible application of the Reparation (Recovery) Acts after the expiry of the 10 years' program of Deliveries in Kind laid down in the Experts' Report.

III. The Italian Government undertakes, as part of the present agreement, to execute the arrangement laid down in Appendix 2 hereto in the matter of imports of coal to Italy.

HENRI JASPAR, *President.*

M. P. A. HANKEY,
Secretary-General.

APPENDIX 1 TO ANNEX II [1]

With a view to safeguarding the financial, commercial and economic interests of the several signatory Governments, the following procedure shall be applied to the special programs for deliveries in kind:

(*a*) In the case of any such special program involving an extension in any of the first 10 years of the Experts' Report of the program of deliveries in kind laid down in the Report for that year.

(*b*) In the case of any special program after the first 10 years.

These special programs shall be submitted for approval to a committee, which shall be convened by the Bank for International Settlements and on which each of the signatory Governments may have a representative. This committee shall take decisions by a majority vote. If a member of the committee considers that the interests of his Government as defined above are prejudiced by the decision of the committee, he may suspend the execution thereof in whole or part and refer the decision to the arbitrator provided for hereafter, on condition that he furnishes the arbitrator with a reasoned statement of his objections within a maximum period of seven days. The arbitrator shall give a decision within 14 days

[1] Enacts part of Report, Annex IV, Sec. 4.

concerning the approval or the rejection of the program or of the part of the program in dispute.

The arbitrator shall be of neutral nationality, and shall be of high commercial and financial standing. He shall be appointed by the signatory Governments acting unanimously or, failing unanimity, by the president of the Permanent Court of International Justice.

HENRI JASPAR, *President.*

M. P. A. HANKEY,
Secretary-General.

APPENDIX 2 TO ANNEX II. Provides for Italian purchase of British coal (see *supra*, p. 84).

ANNEX TO APPENDIX 2. ARRANGEMENT BETWEEN THE FRENCH AND ITALIAN GOVERNMENTS REVISING THEIR DELIVERIES IN KIND SCHEDULES (see first table under Report, ANNEXES, PAR. 190, p. 183).

ANNEX III. AGREEMENT UPON THE TRANSITION PERIOD.

ANNEX IV. AGREEMENT UPON COSTS OF OCCUPATION.

3. AGREEMENT WITH GERMANY

The Representatives of Germany, Belgium, France, Great Britain, Italy and Japan, meeting at Geneva on September 16, 1928, expressed their determination to make a complete and final settlement of the question of reparations and, with a view to attaining this object, provided for the constitution of a Committee of Financial Experts.

With this object the Experts met at Paris and their report was made on June 7, 1929. Approval in principle was given to this report by the Hague Protocol of August 31, 1929.

The duly authorized representatives of the Government of the German Reich, the Government of His Majesty the King of the Belgians, the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of Canada, the Government of the Commonwealth of Australia, the Government of New Zealand, the Government of the Union of South Africa, the Government of India, the Government of the French Republic, the Government of the Greek Republic, the Government of His Majesty the King of Italy, the Government of His Majesty the Emperor of Japan, the Government of the Republic of Poland, the Government of the Republic of Portugal, the Government of

His Majesty the King of Rumania, the Government of the Czechoslovak Republic and the Government of His Majesty the King of Yugoslavia

Have reached the following agreement:

ARTICLE I. The Experts' Plan of June 7, 1929, together with this present Agreement and the Protocol of August 31, 1929 (all of which are hereinafter described as the New Plan) is definitely accepted as a complete and final settlement, so far as Germany is concerned, of the financial questions resulting from the War. By their acceptance the signatory powers undertake the obligations and acquire the rights resulting for them respectively from the New Plan.

The German Government gives the Creditor Powers the solemn undertaking to pay the annuities for which the New Plan provides in accordance with the stipulations contained therein.

ART. II. As from the date the New Plan is put into execution as provided in the final clause of this present Agreement, Germany's previous obligation is entirely replaced, except in respect of the German External Loan 1924, by the obligation laid down in the New Plan. The payment in full of the annuities there mentioned, in so far as the same are due to the Creditor Powers, is accepted by those powers as a final discharge of all the liabilities of Germany still remaining undischarged, referred to in Sec. XI of Part I of the Dawes Plan as interpreted by the decisions of the Interpretation Tribunal set up under the London Agreement of August 30, 1924.

ART. III. A. The signatory Governments recognize that the accounts between the Reparation Commission and Germany relating to transactions prior to the period of the Dawes Plan, together with all accounts involving credits to Germany, either now or in the future, against the original capital debt are henceforth obsolete and without practical effect and declare them closed in their present condition.

B. (*a*) In execution of par. 143 of the Experts' Report of June 7, 1929, on the understanding that the following declaration is to be considered as a full compliance with the requirements of that paragraph as to a waiver, Germany declares that she waives every claim as defined by the following list, whether for a payment or for property, which she may have addressed or might hereafter address to the Reparation Commission or to any Creditor Power signatory to the present agreement for any transaction prior in date to the signature of this agreement, connected with the World War,

the armistice conventions, the treaty of Versailles or any agreements made for their execution:

(1) claims relating to property or pecuniary rights of prisoners of war in so far as they have not already been settled by special agreements;

(2) claims seeking to obtain the reimbursement of payments made under par. 11 of the Annex to Art. 296 of the treaty of Versailles;

(3) claims relating to loans issued by the former German colonies;

(4) any claims, whether for a payment or for property, which the German Government has presented or might present for its own account other than state claims notified, under the clearing procedure provided for under Arts. 296 and 72 of the treaty of Versailles, by the Creditor to the Debtor Office.

(*b*) By way of reciprocity the Creditor Powers accept in conformity with the recommendation of par. 96 of the Experts' Report of June 7, 1929, the payment in full of the annuities fixed thereby as a final discharge of all the liabilities of Germany still remaining undischarged and waive every claim additional to those annuities, either for a payment or for property, which has been addressed or might be addressed to Germany for any past transaction falling under the same heads of claim as those appearing under (1) to (4) above.

(*c*) The provisions of the present article do not affect the execution of agreements later in date than January 10, 1920, for the abandonment of the liquidation of German private property, rights or interests or the restitution either of those properties, rights or interests or the proceeds of their liquidation.

C. (*a*) The Creditor Governments undertake, as from the date of the acceptance of the Experts' Report of June 7, 1929, to make no further use of their right to seize, retain and liquidate the property, rights and interests of German nationals or companies controlled by them, in so far as not already liquid or liquidated or finally disposed of, including the rights of the signatory Creditor Powers under Art. 306, pars. (5), (6) and (7) of the treaty of Versailles.

(*b*) The execution of this undertaking will be regulated by special agreements between the German Government and each of the Governments concerned.

(*c*) The signatory Governments will use every effort to clear up definitely all outstanding questions relating to the execution of this undertaking within one year after the coming into force of the New Plan.

(*d*) This undertaking has no application in cases where special settlements have already been made.

D. All or some of the questions mentioned in the present article as to the waiver of claims and the cessation of liquidation are governed, as between the German Government on the one hand and the following Governments respectively on the other hand, by the Agreements concluded on the following dates, that is to say:[1] Belgium, July 13, 1929, and January 16, 1930; Great Britain, December 28, 1929;[2] Canada, January 14, 1930; Commonwealth of Australia, January 17, 1930; New Zealand, January 17, 1930; France, December 31, 1929; Italy, January 20, 1930; Poland, October 31, 1929.

ART. IV. From and after the date on which the New Plan comes into force, the Office for Reparation Payments and the organizations in Berlin connected therewith shall be abolished and the relations with Germany of the Reparation Commission shall come to an end.

Under the régime of the New Plan only those of the functions of these organizations the maintenance of which is necessitated by the New Plan will continue in existence; these functions will be transferred to the Bank for International Settlements by the "Small Special Committee;"[3] the Bank for International Settlements will exercise them within the conditions and limits of the New Plan in conformity with the provisions of its Statutes.

Under the régime of the New Plan the powers of the Creditor Powers in relation to Germany will be determined in accordance with the provisions of the Plan.

In regard hereto the representatives of the Belgian, British, French, Italian and Japanese Governments and the Representatives of the German Government have made the declarations contained in Annex I.[4]

The other measures necessary in view of the change from the present system to that of the New Plan, are those provided for in Annex II.[5]

ART. V. The annuities mentioned in the present Agreement

[1] Texts in *Entwürfe zu den Gesetzen*, Fünfter Teil.

[2] British Parliamentary Paper, Misc. No. 3 (1930), Cmd. 3486

[3] Provided for in the Report, Annex V, 2, and made up of two members of the Organization Committees, representatives of Germany, the Agent General and the Reparation Commission.

[4] See text, *supra*, p. 46.

[5] For permanent provisions see notes to pars. 142 and 146 of the Report, *supra*, p. 171.

include the amounts required for the service of the German External Loan, 1924. These annuities do not include the amounts which the Experts' Plan of June 7, 1929, assigns to the United States of America.

ART. VI. The contracting parties recognize the necessity, with a view to putting into force the New Plan, of the constitution of the Bank for International Settlements. They recognize the corporate existence of the Bank to take effect as soon as it is constituted in accordance with the Statutes annexed to the law incorporating the Bank which is the subject of the convention concluded with the Government of the Swiss Confederation.[1]

ART. VII. The Government of the Reich will deliver to the Bank for International Settlements, as Trustee for the Creditor Powers, the Debt Certificate referred to in Annex III.[2]

Further, the German Government guarantees that the German Railway Company (Deutsche Reichsbahngesellschaft) will deliver to the Bank for International Settlements the Certificate mentioned in Annex IV.[3]

ART. VIII. With a view to facilitating the successful working of the New Plan the German Government declares spontaneously that it is firmly determined to make every possible effort to avoid a declaration of postponement and not to have recourse thereto until it has come to the conclusion in good faith that Germany's exchange and economic life may be seriously endangered by the transfer in part or in full of the postponable portion of the annuities. It remains understood that Germany alone has authority to decide whether occasion has arisen for declaring a postponement as provided by the New Plan.

ART. IX. The German Government undertakes to take the measures necessary for the enactment of the special laws required for the application of the New Plan, that is to say —

(*a*) the law for the amendment of the Bank Law of August 30, 1924, in accordance with Annex V;[4]

(*b*) the law for the amendment of the law of the Deutsche Reichsbahngesellschaft, in accordance with Annex VI.[5]

These laws may only be amended in the conditions and in accordance with the procedure laid down by Annexes VA and VIA.

[1] See text, p. 203.

[2] See text, p. 232.

[3] Not reprinted; for text see *Agreements*, p. 39.

[4] Not reprinted; for text see *Agreements*, p. 40.

[5] Not reprinted; for text see *Agreements*, p. 45.

The German Government further undertakes to apply the provisions contained in Annexes VII [1] and XI [2] relating to the assignment of the proceeds of certain taxes by way of collateral security for the service of the several parts of the German annuities.

ART. X. The contracting parties will take in their respective territories the measures necessary for securing that the funds and investments of the Bank, resulting from the payments by Germany, shall be freed from all national or local fiscal charges.

The Bank, its property and assets, and also the deposits of other funds intrusted to it, on the territory of, or dependent on the administration of, the parties shall be immune from any disabilities and from any restrictive measures such as censorship, requisition, seizure or confiscation, in time of peace or war, reprisals, prohibition or restriction of export of gold or currency and other similar interferences, restrictions or prohibitions. [3]

ART. XI. The Governments of the Creditor Powers have settled the text of a Trust Agreement, appearing in Annex VIII, [4] for the receipt, management and division of the German annuities.

The Bank for International Settlements upon its establishment will be invited to give its adhesion to the agreement, and the Governments referred to will appoint delegates with the powers necessary to sign.

The German Government declares that it has been informed of the text of the agreement.

ART. XII. The system of deliveries in kind will be governed by the provisions contained in Annex IX hereto [5] and in the second Annex [6] to the Protocol of August 31, 1929.

The methods of administering the law of Great Britain entitled "The German Reparation (Recovery) Act 1921" and the levy on German imports into France have been settled by agreements between the German Government on the one hand and the British

[1] Deals with former controlled revenues, *Agreements*, p. 67, and *supra*, p. 68.

[2] Not reprinted; for text see *Agreements*, p. 105. The system established for securing payment of the external loan consists of continuing the practice in force under the commissioner of assigned revenues under the Dawes Plan. The proceeds of the taxes pledged to loan service are remitted to an account of the trustees monthly and are released when the monthly loan requirements are met.

[3] *Cf.* par. 10 of the Charter of the Bank, p. 206.

[4] See text, p. 220.

[5] Not reprinted; for text see *Agreements*, p. 80.

[6] This annex is largely transitional, except for certain technical details. The permanent part of it, enacting the Experts' Report, Annex IV, 4, is printed at p. 191.

and French Governments respectively on the other; the text of these Agreements is set out in Annex X.[1]

ART. XIII. The German Government confirms all the priorities, securities and rights hitherto created for the benefit of the German External Loan, 1924, and declares that nothing in the New Plan or in consequence of the termination of the Dawes Plan, diminishes or varies the nature and extent of its prior obligations and engagements assumed under the General Bond[2] securing said loan, all of which are preserved in their integrity. The Governments of the other signatory powers similarly confirm and recognize the absolute prior position of the service of the German External Loan, 1924, and declare, in so far as they are concerned, that all the priorities, securities and rights hitherto granted said loan remain unimpaired including those under the London protocol dated August 30, 1924.[3] In particular, but without limiting the foregoing general declarations, the Governments of the German Reich and of the other signatory powers recognize that the specific first prior charge for the benefit of the said loan continues to attach to all payments hereafter to be made by Germany for reparation or other treaty costs, including not only the nonpostponable portion of the German annuities to be paid into the Annuity Trust Account but also the postponable portion of the German annuities to be paid into the Annuity Trust Account; and the said powers accordingly agree that the amounts currently required for the service of said loan shall be paid out of said annuities to, or upon the order of, the Trustees of said loan in priority to any other disbursements made therefrom. The Government of the German Reich further accepts and confirms the provisions for the security of the German External Loan, 1924, which are contained in Annex XI,[4] of which the English text is alone authentic.

ART. XIV. The Creditor Powers recognize that their acceptance of the solemn undertaking of the German Government replaces all controls, special securities, pledges or charges existing at the present time, with the exception of those specially mentioned in Art. XIII and in Annexes VI, VII and XI.

ART. XV. 1. Any dispute whether between the Governments

[1] Not reprinted; for text see *Agreements*, p. 100.

[2] Reparation Commission, *Official Documents*, XIV, p. 318.

[3] *Cf.* Art. 3 of the agreement between the allied Governments amending Part VIII, Annex II of the treaty of Versailles, *Reparation*, Part VI, p. 263; Reparation Commission, *Official Documents*, XIV, p. 157.

[4] Not reprinted; for text see *Agreements*, p. 105.

signatory to the present agreement or between one or more of those Governments and the Bank for International Settlements, as to the interpretation or application of the New Plan shall, subject to the special provisions of Annexes I,[1] VA, VIA and IX, be submitted for final decision to an arbitration tribunal of five members appointed for five years, of whom one, who will be the chairman, shall be a citizen of the United States of America, two shall be nationals of states which were neutral during the late war; the two others shall be respectively a national of Germany and a national of one of the powers which are creditors of Germany.

For the first period of five years from the date when the New Plan takes effect this Tribunal shall consist of the five members who at present constitute the Arbitration Tribunal established by the Agreement of London of August 30, 1924.

2. Vacancies on the Tribunal, whether they result from the expiration of the five-yearly periods or occur during the course of any such period, shall be filled, in the case of a member who is a national of one of the powers which are creditors of Germany, by the French Government, which will first reach an understanding for this purpose with the Belgian, British, Italian and Japanese Governments; in the case of the member of German nationality, by the German Government; and in the cases of the three other members by the six Governments previously mentioned acting in agreement, or in default of their agreement, by the president for the time being of the Permanent Court of International Justice.

3. In any case in which either Germany or the Bank is plaintiff or defendant, if the chairman of the Tribunal considers, at the request of one or more of the Creditor Governments parties to the proceedings, that the said Government or Governments are principally concerned, he will invite the said Government or Governments to appoint — and in the case of more Governments than one by agreement — a member, who will take the place on the Tribunal of the member appointed by the French Government.

In any case in which, on the occasion of a dispute between two or more Creditor Governments, there is no national of one or more of those Governments among the members of the Tribunal, that Government or those Governments shall have the right to appoint each a member who will sit on that occasion. If the chairman considers that some of the said Governments have a common interest in the dispute, he will invite them to appoint a single

[1] See *supra*, p. 46.

member. Whenever, as a result of this provision, the Tribunal is composed of an even number of members, the chairman shall have a casting vote.

4. Before and without prejudice to a final decision, the chairman of the Tribunal, or, if he is not available in any case, any other member appointed by him, shall be entitled, on the request of any party who makes the application, to make any interlocutory order with a view to preventing any violation of the rights of the parties.

5. In any proceedings before the Tribunal the parties shall always be at liberty to agree to submit the point at issue to the chairman or any one of the members of the Tribunal chosen as a single arbitrator.

6. Subject to any special provisions which may be made in the submission — provisions which may not in any event affect the right of intervention of a third party — the procedure before the Tribunal or a single arbitrator shall be governed by the rules laid down in Annex XII.[1]

The same rules, subject to the same reservation, shall also apply to any proceedings before this Tribunal for which the annexes to the present agreement provide.

7. In the absence of an understanding on the terms of submission, any party may seize the Tribunal directly by a proceeding *ex parte*, and the Tribunal may decide, even in default of appearance, any question of which it is thus seized.

8. The Tribunal, or the single arbitrator, may decide the question of their own jurisdiction, provided always that, if the dispute is one between Governments and a question of jurisdiction is raised, it shall, at the request of either party, be referred to the Permanent Court of International Justice.

9. The present provisions shall be duly accepted by the Bank for the settlement of any dispute which may arise between it and one or more of the signatory Governments as to the interpretation or application of its Statutes or the New Plan.

Final Clause

M. Henri Jaspar, Prime Minister of Belgium, as chairman of the Hague Conference of 1930, will deliver to each of the signatory Governments a certified copy of the present agreement (which expression here, and in all places where the context admits, includes

[1] Not reprinted; for text see *Agreements*, p. 107.

the annexes hereto) immediately after signature. The French and English texts are both, in the absence of special provision to the contrary, authentic, provided that, for the certificates mentioned in Art. VII and the German Laws mentioned in Art. IX of the present agreement the German text, and for the provisions of Annex XI the English text, alone will be authentic.

The present agreement shall be ratified and the deposit of ratifications shall be made at Paris with the French Government.

The powers of which the seat of government is outside Europe will be entitled merely to inform the French Government through their diplomatic representatives at Paris that their ratification has been given; in that case they must transmit the instrument of ratification as soon as possible.

The New Plan will come into force and will be considered as having been put into execution on the date on which the Reparation Commission and the chairman of the Kriegslastenkommission have agreed in reporting:

(1) The ratification of the present agreement by Germany and the enactment of the German laws in accordance with the relative annexes.

(2) The ratification of the present agreement by four of the following powers, that is to say, Belgium, Great Britain, France, Italy and Japan.

(3) The constitution of the Bank for International Settlements and the acceptance by the Bank of the undertakings by it for which the present agreement provides, and also its receipt of the certificate of the German Government and the certificate of the German Railway Company as provided in Annexes III and IV.

The report of the Reparation Commission shall require a unanimous vote of the members of the Commission as constituted for the purposes of the treaty of Versailles when a question concerning Germany is under consideration, the Japanese delegate nevertheless taking part in the discussion and giving his vote.

The report of the Reparation Commission and the chairman of the Kriegslastenkommission will be notified to all the powers signatory of the present agreement.

Provided always that the substitution of the obligations and annuities of the New Plan for those of the Experts' Plan of April 9, 1924, shall date from September 1, 1929, regard being had to the provisions of the Hague Protocol of August 31, 1929, and of Annex II to the present agreement.

The present agreement will come into force for each Government other than the four of those mentioned above by name who first ratify, on the date of notification or deposit of ratification.

Provided always that any such ratification shall have the same effect as if it had taken place before the report of the Reparation Commission and the chairman of the Kriegslastenkommission.

The French Government will transmit to all the signatory Governments a certified copy of the procès-verbaux of the deposit.

Done in a single copy at The Hague, the 20th day of January, 1930.

CURTIUS.
WIRTH.
SCHMIDT.
MOLDENHAUER.
HENRI JASPAR.
PAUL HYMANS.
E. FRANCQUI.
PHILIP SNOWDEN.
PETER LARKIN.
GRANVILLE RYRIE.
E. TOMS.
PHILIP SNOWDEN.
PHILIP SNOWDEN.
HENRI CHERON.
LOUCHEUR.
N. POLITIS.
J. G. POLITIS.
A. MOSCONI.
A. PIRELLI.
SUVICH.
M. ADATCI.
K. HIROTA.
J. MROZOWSKI.
R. ULRICH.
TOMAZ FERNANDES.
G. G. MIRONESCO.
N. TITULESCO.
J. LUGOSIANO.
AL. ZEUCEANO.
Dr. EDUARD BENES.
STEFAN OSUSKY.
Dr. V. MARINKOVICH.
CONST. FOTICH.

II. THE BANK FOR INTERNATIONAL SETTLEMENTS

1. CONVENTION RESPECTING THE BANK FOR INTERNATIONAL SETTLEMENTS, SIGNED AT THE HAGUE, JANUARY 20, 1930[1]

The duly authorized representatives of the Governments of Germany, of Belgium, of France, of the United Kingdom of Great Britain and Northern Ireland, of Italy and of Japan of the one part

And the duly authorized representatives of the Government of the Swiss Confederation of the other part

Assembled at The Hague Conference in the month of January, 1930, have agreed on the following:

ARTICLE 1. Switzerland undertakes to grant to the Bank of International Settlements, without delay, the following constituent charter having force of law; not to abrogate this charter, not to amend or add to it, and not to sanction amendments to the Statutes of the Bank referred to in par. 4 of the charter otherwise than in agreement with the other signatory Governments.

ART. 2. Any dispute between the Swiss Government and any one of the other signatory Governments relating to the interpretation or application of the present convention shall be submitted to the Arbitral Tribunal provided for by the Hague Agreement of January, 1930. The Swiss Government may appoint a member who shall sit on the occasion of such disputes, the president having a casting vote. In having recourse to this Tribunal the parties may always agree between themselves to submit their dispute to the president or to one of the members of the Tribunal chosen to act as sole arbiter.

ART. 3. The present convention is entered into for a period of 15 years. It is entered into on the part of Switzerland under reserve of ratification and shall be put into force as soon as it shall have been ratified by the Government of the Swiss Confederation. The instrument of ratification shall be deposited with the Ministry of Foreign Affairs at Paris. Upon the entry into force of the convention, the Swiss Government will initiate the necessary con-

[1] Document No. 6 of the Final Act of the Hague Conference, *Agreements concluded at the Hague Conference, January, 1930*, p. 110 (Misc. No. 4 (1930), Cmd. 3484); *Entwürfe zu den Gesetzen über die Haager Konferenz und die Sonder- und Liquidationsabkommen*, p. 258.

stitutional procedure in order that the assent of the Swiss people may be obtained for the maintenance in force during the whole of the Bank's existence of the provisions of the present convention. As soon as these measures have become fully effective the Swiss Government will notify the other signatory Governments and these provisions shall become valid during the Bank's existence.

Constituent Charter of the Bank for International Settlements

Whereas the powers signatory to the Hague agreement of January, 1930, have adopted a Plan which contemplates the founding by the Central Banks of Belgium, France, Germany, Great Britain, Italy and Japan and by a financial institution of the United States of America of an international bank to be called the Bank for International Settlements;

And whereas the said central banks and a banking group including Messrs. J. P. Morgan & Company of New York, the First National Bank of New York, New York, and the First National Bank of Chicago, Chicago, have undertaken to found the said Bank and have guaranteed or arranged for the guaranty of the subscription of its authorized capital amounting to five hundred million Swiss francs equal to 145,161,290.32 gram, fine gold, divided into 200,000 shares;

And whereas the Swiss Federal Government has entered into a treaty with the Governments of Germany, Belgium, France, Great Britain, Italy and Japan whereby the said Federal Government has agreed to grant the present Constituent Charter of the Bank for International Settlements and not to repeal, amend or supplement the said Charter and not to sanction amendments to the Statutes of the Bank referred to in par. 4 of the present Charter except in agreement with the said inviting powers;

(1) The Bank for International Settlements (hereinafter called the Bank) is hereby incorporated.

(2) Its constitution, operations and activities are defined and governed by the annexed Statutes, which are hereby sanctioned.

(3) Amendment of articles of the said Statutes other than those enumerated in par. 4 hereof may be made and shall be put into force as provided in Art. 59 of the said Statutes, and not otherwise.

(4) Arts. 2, 3, 4, 9, 15, 20, 25, 28, 46, 53, 56, 59 and 60 of the said Statutes shall not be amended except subject to the following con-

ditions: the amendment must be adopted by a two-thirds majority of the Board, approved by a majority of the General Meeting and sanctioned by a law supplementing the present Charter.

(5) The said Statutes and any amendments which may be made thereto in accordance with pars. 3 or 4 hereof respectively shall be valid and operative notwithstanding any inconsistency therewith in the provisions of any present or future Swiss law.

(6) The Bank shall be exempt and immune from all taxation included in the following categories:

(*a*) stamp, registration and other duties on all deeds or other documents relating to the incorporation or liquidation of the Bank;

(*b*) stamp and registration duties on any first issue of its shares by the bank to a central bank, financial institution, banking group or underwriter at or before the time of incorporation or in pursuance of Art. 7 or 9 of the Statutes;

(*c*) all taxes on the Bank's capital, reserves or profits, whether distributed or not, and whether assessed on the profits of the Bank before distribution or imposed at the time of distribution under the form of a coupon tax payable or deductible by the Bank. This provision is without prejudice to the state's right to tax the residents of Switzerland other than the Bank as it thinks fit;

(*d*) all taxes upon any agreements which the Bank may make in connection with the issue of loans for mobilizing the German annuities and upon the bonds of such loans issued on a foreign market;

(*e*) all taxes on the remunerations and salaries paid by the Bank to members of its administration or its employees of non-Swiss nationality.

(7) All funds deposited with the Bank by any Government in pursuance of the plan adopted by the Hague Agreement of January, 1930, shall be exempt and immune from taxation, whether by way of deduction by the Bank on behalf of the authority imposing the same or otherwise.

(8) The foregoing exemptions and immunities shall apply to present and future taxation by whatsoever name it may be described and whether imposed by the Confederation or by the cantonal, communal or other public authorities.

(9) Moreover, without prejudice to the exemptions specified above, there may not be levied on the Bank, its operation or its personnel any taxation other than that of a general character and to which other banking establishments established at Basel or in

Switzerland, their operations and their personnel, are not subjected *de facto* and *de jure*.

(10) The Bank, its property and assets and all deposits and other funds intrusted to it shall be immune in time of peace and in time of war from any measure such as expropriation, requisition, seizure, confiscation, prohibition or restriction of gold or currency export or import, and any other similar measures.

(11) Any dispute between the Swiss Government and the Bank as to the interpretation or application of the present Charter shall be referred to the Arbitral Tribunal provided for by the Hague agreement of January, 1930.

The Swiss Government shall appoint a member to sit on the occasion of such dispute, the President having a casting vote.

In having recourse to the said Tribunal the Parties may nevertheless agree to submit their dispute to the President or to a member of the Tribunal chosen to act as sole Arbiter.

Done at The Hague, the 20th January, 1930.

Curtius.	A. Pirelli.
Henri Jaspar.	Suvich.
Paul Hymans.	M. Adatci.
E. Francqui.	K. Hirota.
Henri Chéron.	G. Bachmann.
Loucheur.	W. Burckhardt.
Philip Snowden.	Dr. R. Miescher.
A. Mosconi.	

Annex: Statutes of the Bank for International Settlements

Chapter I. Name, Seat and Objects

Article 1. There is constituted under the name of the Bank for International Settlements (hereinafter referred to as the Bank), a company limited by shares.

Art. 2. The registered office of the Bank shall be situated at Basel, Switzerland.

Art. 3. The objects of the Bank are: To promote the cooperation of central banks and to provide additional facilities for international financial operations; and to act as trustee or agent in regard to international financial settlements intrusted to it under agreements with the parties concerned.

Art. 4. As long as the New Plan as defined in Hague Agreement of

January, 1930 (hereinafter referred to as the Plan), is in force, the Bank (1) shall carry out the functions assigned to it in the Plan; (2) shall conduct its affairs with a view to facilitating the execution of the Plan; and (3) shall observe the provisions of the Plan in the administration and operations of the Bank; all within the limits of the powers granted by these Statutes.

During the said period the Bank, as trustee or agent for the governments concerned, shall receive, administer and distribute the annuities paid by Germany under the Plan; shall supervise and assist in the commercialization and mobilization of certain portions of the aforesaid annuities; and shall perform such services in connection with the payment of German reparations and the international settlements connected therewith as may be agreed upon by the Bank with the Governments concerned.

Chapter II. Capital

Art. 5. The authorized capital of the Bank shall be 500,000,000 Swiss gold francs, equivalent to 145,161,290.32 gr. fine gold.

It shall be divided into 200,000 shares of equal gold nominal value.

The nominal value of each share shall also be expressed on the face of each share in terms both of Swiss francs and of the currency of the country in which it is issued, converted at the gold mint parity.

Art. 6. The subscription of the total authorized capital having been guaranteed in equal parts by the Banque Nationale de Belgique, the Bank of England, the Banque de France, the Reichsbank, the Banca d'Italia, Messrs. X,[1] acting in place of the Bank of Japan, and Messrs. Y [2] of New York, the Bank may begin business as soon as the minimum of 112,000 shares has been subscribed.

Art. 7. (1) During the two years following incorporation the Board of Directors of the Bank (hereinafter referred to as the Board) shall arrange for the subscription of any unissued portion of the authorized capital.

(2) This unissued portion may be offered to the central banks or other banks of countries which have not participated in the original subscription. The selection of countries in which such shares shall be offered for subscription and the amount to be subscribed in each shall be determined by the Board by a two-thirds majority, provided that offers of shares shall only be made in countries interested in reparations or in countries whose currencies, in the opinion of the Board, satisfy the practical requirements of the gold or gold exchange standard, and that the amount issued in any one of these countries shall not exceed 8,000 shares.

(3) The seven banking institutions mentioned in Art. 6 shall, in

[1] The Yokohama Specie Bank.

[2] A group consisting of J. P. Morgan & Company of New York, the First National Bank of New York and the First National Bank of Chicago.

accordance with their several guaranties, subscribe or arrange for the subscription in equal proportions of any part of the authorized capital which at the end of two years remains unsubscribed.

ART. 8. (1) Twenty-five per cent only of the value of each share shall be paid up at the time of subscription. The balance may be called up at a later date or dates at the discretion of the Board. Three months' notice shall be given of any such calls.

(2) If a shareholder fails to pay any call on a share on the day appointed for payment thereof the Board may, after giving reasonable notice to such shareholder, forfeit the share in respect of which the call remains unpaid. A forfeited share may be sold on such terms and in such manner as the Board may think fit; and the Board may execute a transfer in favor of the person or corporation to whom the share is sold. The proceeds of sale may be received by the Bank, which will pay to the defaulting shareholder any part of the net proceeds over and above the amount of the call due and unpaid.

ART. 9. (1) The capital of the Bank may be increased or reduced on the proposal of the Board acting by a two-thirds majority and adopted by a two-thirds majority of the General Meeting.

(2) In the event of an increase in the authorized capital of the Bank and of a further issue of shares the distribution among countries shall be decided by a two-thirds majority of the Board. The central banks of Belgium, England, France, Germany, Italy, Japan and the United States of America, or some other financial institution of the last-named country acceptable to the foregoing central banks, shall be entitled to subscribe or arrange for the subscription in equal proportions of at least 55% of such additional shares.

(3) No part of the amount not taken by the Banks of these seven countries shall be subscribed in any other country unless it is interested in reparations or at the time of issue its currency, in the opinion of the Board, satisfies the practical requirements of the gold or gold exchange standard.

ART. 10. In extending invitations to subscribe for capital in accordance with Art. 7, par. 2, or with Art. 9, consideration shall be given by the Board to the desirability of associating with the Bank the largest possible number of central banks.

ART. 11. No shares shall be issued below par.

ART. 12. The liability of shareholders is limited to the nominal value of their shares.

ART. 13. The shares shall be registered and transferable in the books of the Bank.

The Bank shall be entitled without assigning any reason to decline to accept any person or corporation as the transferee of a share. It shall not transfer shares without the prior consent of the central bank, or the institution acting in lieu of a central bank, by or through whom the shares in question were issued.

ART. 14. The shares shall carry equal rights to participate in the profits of the Bank and in any distribution of its assets under Arts. 53, 54 and 55 of the Statutes.

ART. 15. The ownership of shares of the Bank carries no right of voting or representation at the General Meeting. The right of representation and of voting, in proportion to the number of shares subscribed in each country, may be exercised by the central bank of that country or by its nominee. Should the central bank of any country not desire to exercise these rights they may be exercised by a financial institution of widely recognized standing and of the same nationality, appointed by the Board and not objected to by the central bank of the country in question. In cases where there is no central bank, these rights may be exercised, if the Board thinks fit, by an appropriate financial institution of the country in question appointed by the Board.

ART. 16. Any subscribing institution or banking group may issue, or cause to be issued, to the public the shares for which it has subscribed.

ART. 17. Any subscribing institution or banking group may issue to the public certificates against the shares of the Bank owned by it. The form, details and terms of issue of such certificates shall be determined by the Bank issuing them in agreement with the Board.

ART. 18. The receipt or ownership of shares of the Bank or of certificates issued in accordance with Art. 17 implies acceptance of the Statutes of the Bank and a statement to that effect shall be embodied in the text of such shares and certificates.

ART. 19. The registration of the name of the holder of shares in the books of the Bank establishes the title to ownership of the shares so registered.

CHAPTER III. POWERS OF THE BANK

ART. 20. The operations of the Bank shall be in conformity with the monetary policy of the central banks of the countries concerned.

Before any financial operation is carried out by or on behalf of the Bank on a given market or in a given currency the Board shall afford to the central bank or central banks directly concerned an opportunity to dissent. In the event of disapproval being expressed within such reasonable time as the Board shall specify, the proposed operation shall not take place. A central bank may make its concurrence subject to conditions and may limit its assent to a specific operation, or enter into a general arrangement permitting the Bank to carry on its operations within such limits as to time, character and amount as may be specified. This article shall not be read as requiring the assent of any central bank to the withdrawal from its market of funds to the introduction of which no objection had been raised by it, in the absence of stipulations to the contrary by the central bank concerned at the time the original operation was carried out.

Any governor of a central bank or his alternate or any other director

specially authorized by the central bank of the country of which he is a national to act on its behalf in this matter, shall, if he is present at the meeting of the Board and does not vote against any such proposed operation, be deemed to have given the valid assent of the central bank in question.

If the representative of the central bank in question is absent or if a central bank is not directly represented on the Board, steps shall be taken to afford the central bank or banks concerned an opportunity to express dissent.

ART. 21. The operations of the Bank for its own account shall only be carried out in currencies which in the opinion of the Board satisfy the practical requirements of the gold or gold exchange standard.

ART. 22. The Board shall determine the nature of the operations to be undertaken by the Bank.

The Bank may in particular:

(*a*) buy and sell gold coin or bullion for its own account or for the account of central banks;

(*b*) hold gold for its own account under earmark in central banks;

(*c*) accept the custody of gold for the account of central banks;

(*d*) make advances to or borrow from central banks against gold, bills of exchange and other short-term obligations of prime liquidity or other approved securities;

(*e*) discount, rediscount, purchase or sell with or without its indorsement bills of exchange, checks and other short-term obligations of prime liquidity, including treasury bills and other such government short-term securities as are currently marketable;

(*f*) buy and sell exchange for its own account or for the account of central banks;

(*g*) buy and sell negotiable securities other than shares for its own account or for the account of central banks;

(*h*) discount for central banks bills taken from their portfolio and rediscount with central banks bills taken from its own portfolio;

(*i*) open and maintain current or deposit accounts with central banks;

(*j*) accept:

(i) deposits from central banks on current or deposit account;

(ii) deposits in connection with trustee agreements that may be made between the Bank and governments in connection with international settlements;

(iii) such other deposits as in the opinion of the Board come within the scope of the Bank's functions.

The Bank may also:

(*k*) act as agent or correspondent of any central banks;

(*l*) arrange with any central bank for the latter to act as its agent or correspondent. If a central bank is unable or unwilling to act in this

capacity the Bank may make other arrangements, provided that the central bank concerned does not object. If in such circumstances it should be deemed advisable that the Bank should establish its own agency, the sanction of a two-thirds majority of the Board will be required.

(*m*) enter into agreements to act as trustee or agent in connection with international settlements, provided that such agreements shall not encroach on the obligations of the Bank toward third parties; and carry out the various operations laid down therein.

ART. 23. Any of the operations which the Bank is authorized to carry out with central banks under the preceding article may be carried out with banks, bankers, corporations or individuals of any country provided that the central bank of that country does not object.

ART. 24. The Bank may enter into special agreements with central banks to facilitate the settlement of international transactions between them.

For this purpose it may arrange with central banks to have gold earmarked for their account and transferable on their order, to open accounts through which central banks can transfer their assets from one currency to another and to take such other measures as the Board may think advisable within the limits of the powers granted by these Statutes. The principles and rules governing such accounts shall be fixed by the Board.

ART. 25. The Bank may not:

(*a*) issue notes payable at sight to bearer;

(*b*) "accept" bills of exchange;

(*c*) make advances to governments;

(*d*) open current accounts in the name of governments;

(*e*) acquire a predominant interest in any business concern;

(*f*) except so far as necessary for the conduct of its own business, remain the owner of real property for any longer period than is required in order to realize to proper advantage such real property as may come into the possession of the Bank in satisfaction of claims due to it.

ART. 26. The Bank shall be administered with particular regard to maintaining its liquidity, and for this purpose shall retain assets appropriate to the maturity and character of its liabilities. Its short-term liquid assets may include bank notes, checks payable at sight drawn on first-class banks, claims in course of collection, deposits at sight or at short notice in first-class banks, and prime bills of not more than ninety days' usance of a kind usually accepted for rediscount by central banks. The proportion of the Bank's assets held in any given currency shall be determined by the Board with due regard to the liabilities of the Bank.

Chapter IV. Management

Art. 27. The administration of the Bank shall be vested in the Board.

Art. 28. The Board shall be composed as follows:[1]

(1) The Governors for the time being of the central banks of Belgium, France, Germany, Great Britain, Italy, Japan and the United States of America (hereinafter referred to as *ex-officio* Directors), or if any of the said Governors are unwilling or unable to hold office, their respective nominees (hereinafter referred to as substitute nominees).

The tenure of office of a substitute nominee shall be within the discretion of the Governor by whom he is appointed but shall terminate in any case when that governor vacates office.

Any *ex-officio* Director may appoint one person as his alternate who shall be entitled to attend and exercise the powers of a director at meetings of the Board if the Governor himself is unable to be present.

(2) Seven persons representative of finance, industry or commerce appointed one each by the Governors of the central banks mentioned in subclause (1), and being of the same nationality as the Governor who appoints him.

During continuance of the liability of Germany to pay reparation annuities, two persons of French and German nationality respectively, representative of industry or commerce, appointed by the Governors of the Bank of France and of the Reichsbank respectively, if they so desire.

If for any reason the Governor of any of the seven institutions above mentioned is unable or unwilling to serve as Director or to appoint a substitute nominee under subclause (1), or to make an appointment under subclause (2), the Governors of the other institutions referred to, or a majority of them, may invite to become members of the Board two nationals of the country of the Governor in question, not objected to by the central bank of that country.

Directors appointed as aforesaid other than *ex-officio* Directors, or their substitute nominees, shall hold office for three years, but shall be eligible for reappointment.

[1] Directors are:

(1) Ex-officio directors: Louis Franck (Belgian); Emile Moreau (French); Hans Luther (German); Montagu Norman (British); Senator Stringher (Italian); Setsusaburo Tanaka (London representative of the Bank of Japan); Gates W. McGarrah (American), president.

(2) Emile Francqui, vice governor of the Société générale de Belgique; Baron Brincard (French), president of the Crédit Lyonnais; Sir Charles S. Addis (British), Hong Kong and Shanghai Bank; Giuseppe Beneduce, professor and member of the Italian Parliament; Daisuke Nahara, London manager of the Yokohama Specie Bank; Leon Fraser (American), formerly counsel for the Dawes Plan organization; Carl Melchior (German), banking and financial authority.

Marquis de Voguë (French), president of the Compagnie du Canal Suez, and Paul Reusch, industrialist.

(3) Not more than nine persons to be elected by the following procedure:

The Governor of the central bank of every country other than those mentioned in subclause (1), in which capital has been subscribed at the time of incorporation, shall be entitled to submit a list of four candidates of his own nationality for directorship, which may include his own name. Two of the candidates on each list shall be representative of finance and the other two of industry or commerce. From these lists the Board may elect, by a two-thirds majority, not more than nine persons.

The Directors so elected shall be divided by lot into three groups, as nearly as may be equal in number, of which one group shall retire at the end of the first, one at the end of the second and one at the end of the third financial year of the Bank. The retiring Directors shall be eligible for re-election.

At the first meeting of the Directors in the second and succeeding financial years the Board may elect by a two-thirds majority not more than three Directors from a panel of candidates composed of lists of persons with similar qualifications to those specified in connection with the first election. The Governors of the central banks of every country other than those mentioned in subclause (1), in which capital has at the date of such meeting been subscribed shall be entitled to submit a list of four persons to be included in the panel. Directors so elected shall hold office for three years, but shall be eligible for re-election.

If in any of the countries referred to in the preceding paragraph there is no central bank, the Board by a two-thirds majority may nominate an appropriate financial institution to exercise the right of submitting a list of candidates for election.

Art. 29. In the event of a vacancy occurring on the Board for any reason other than the termination of a period of office in accordance with the preceding article, the vacancy shall be filled in accordance with the procedure by which the member to be replaced was selected. In case of Directors other than *ex-officio* Directors the new Director shall hold office for the unexpired period only of his predecessor's term of office. He shall, however, be eligible for re-election at the expiration of that term.

Art. 30. The Directors must be ordinarily resident in Europe or in a position to attend regularly at meetings of the Board.

Art. 31. No person shall be appointed or hold office as a Director who is a member or an official of a Government or is a member of a legislative body, unless he is the Governor of a central bank.

Art. 32. Meetings of the Board shall be held not less than ten times a year. At least four of these shall be held at the registered office of the Bank.

Art. 33. A member of the Board who is not present in person at a meeting of Directors may give a proxy to any other member authorizing him to vote at that meeting on his behalf.

ART. 34. Unless otherwise provided by the Statutes, decisions of the Board shall be taken by a simple majority of those present or represented by proxy. In the case of an equality of votes, the chairman shall have a second or casting vote.

The Board shall not be competent to act unless a quorum of Directors is present. This quorum shall be laid down in a regulation adopted by a two-thirds majority of the Board.

ART. 35. The members of the Board may receive, in addition to out-of-pocket expenses, a fee for attendance at meetings and/or a remuneration, the amounts of which will be fixed by the Board, subject to the approval of the General Meeting.

ART. 36. The proceedings of the Board shall be summarized in minutes which shall be signed by the chairman.

Copies of or extracts from these minutes for the purpose of production in a court of justice must be certified by the General Manager of the Bank.

A record of decisions taken at each meeting shall be sent within eight days of the meeting to every member.

ART. 37. The Board shall represent the Bank in its dealings with third parties and shall have the exclusive right of entering into engagements on behalf of the Bank. It may, however, delegate this right to a member or members of the Board or of the permanent staff of the Bank, provided that it defines the powers of each person to whom it delegates this right.

ART. 38. The Bank shall be legally committed *vis-à-vis* third parties by the signature of the President or by two signatures either of members of the Board or of members of the staff who have been duly authorized by the Board to sign on its behalf.

ART. 39. The Board shall elect from among its members a chairman and one or more vice chairmen, one of whom shall preside at meetings of the Board in the absence of the chairman.

The chairman of the Board shall be President of the Bank.

He shall hold office for three years and shall be eligible for re-election.

Subject to the authority of the Board, the President will carry out the policy and control the administration of the Bank.

He shall not hold any other office which, in the judgment of the Board, might interfere with his duties as President.

ART. 40. At a meeting of the Board at which the election of a chairman is to take place, the chair shall be taken by the oldest member of the board present.

ART. 41. A General Manager[1] shall be appointed by the Board on proposal of the President. He will be responsible to the President for the operations of the Bank and will be the chief of its operating staff.

The heads of departments, and any other officers of a similar rank, shall be appointed by the Board on recommendations made by the President after consultation with the General Manager.

[1] Pierre Quesnay is the first incumbent.

The remainder of the Staff shall be appointed by the General Manager with the approval of the President.

ART. 42. The departmental organization of the Bank shall be determined by the Board.

ART. 43. The Board may, if it thinks fit, appoint from among its members an executive committee to assist the President in the administration of the Bank.

The President shall be a member and *ex-officio* chairman of this committee.

ART. 44. The Board may appoint advisory committees chosen wholly or partly from persons not concerned in the Bank's management.

ART. 45. As long as the Plan is in force, the Board shall convene the Special Advisory Committee referred to in the Plan[1] upon receipt of notice therein provided for.

CHAPTER V. GENERAL MEETING

ART. 46. General Meetings of the Bank may be attended by nominees of the central banks or other financial institutions referred to in Art. 15.

Voting rights shall be in proportion to the number of shares subscribed in the country of each institution represented at the meeting.

The chair shall be taken at General Meetings by the chairman of the Board or in his absence by a vice chairman.

At least three weeks' notice of General Meetings shall be given to those entitled to be represented.

Subject to the provisions of these Statutes, the General Meeting shall decide upon its own procedure.

ART. 47. Within three months after the end of each financial year of the Bank, an Annual General Meeting shall be held upon such date as the Board may decide.

The meeting shall take place at the registered office of the Bank.

Voting by proxy will be permitted in such manner as the Board may have provided in advance by regulation.

ART. 48. The Annual General Meeting shall be invited:

(*a*) to approve the Annual Report, the Balance Sheet upon the report of the auditors, and the Profit and Loss Account, and any proposed change in the remuneration, fees or allowances of members of the Board.

(*b*) to make appropriations to Reserve and to special funds; and to consider the declaration of a dividend and its amount.

(*c*) to elect the auditors for the ensuing year and to fix their remuneration, and

(*d*) to discharge the Board from all personal responsibility in respect of the past financial year.

[1] For this committee, see p. 78, 167.

ART. 49. Extraordinary General Meetings shall be summoned to decide upon any proposals of the Board:

(*a*) to amend the Statutes;

(*b*) to increase or decrease the capital of the Bank;

(*c*) to liquidate the Bank.

CHAPTER VI. ACCOUNTS AND PROFITS

ART. 50. The financial year of the Bank will begin April 1 and end March 31. The first financial period will end on March 31, 1931.

ART. 51. The Bank shall publish an Annual Report, and at least once a month a Statement of Account in such form as the Board may prescribe.

The Board shall cause to be prepared a Profit and Loss Account and Balance Sheet of the Bank for each financial year in time for submission to the Annual General Meeting.

ART. 52. The Accounts and Balance Sheet shall be audited by independent auditors. The auditors shall have full power to examine all books and accounts of the Bank and to require full information as to all its transactions. The auditors shall report to the Board and to the General Meeting and shall state in their Report:

(*a*) whether or not they have obtained all the information and explanations they have required; and

(*b*) whether, in their opinion the Balance Sheet dealt with in the Report, is properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs according to the best of their information and the explanations given to them, and as shown by the books of the Bank.

ART. 53. The yearly net profits of the Bank shall be applied as follows:

(*a*) 5% of such net profits, or such proportion of 5% as may be required for the purpose, shall be paid to a reserve fund, called the Legal Reserve Fund until that fund reaches an amount equal in value to 10% of the amount of paid-up capital of the Bank for the time being;

(*b*) thereafter such net profits shall be applied in or toward the payment of dividends of 6% per annum on the amount of paid-up capital of the Bank. This dividend shall be cumulative;

(*c*) as to the residue (if any) of such net profits 20% shall be paid to the shareholders until a maximum further dividend of 6% (which shall be non-cumulative) is reached, provided that the Board may in any year withhold all or any part of this additional payment and place it to the credit of a special dividend reserve fund for use in maintaining the cumulative 6% dividend provided for in the preceding paragraph or for subsequent distribution to the shareholders;

(*d*) after making provision for the foregoing, one-half of the yearly net profits then remaining shall be paid into the General Reserve Fund of the Bank until it equals the paid-up capital. Thereafter 40% shall

be so applied until the General Reserve Fund equals twice the paid-up capital; 30% until it equals three times the paid-up capital; 20% until it equals four times the paid-up capital; 10% until it equals five times the paid-up capital; and from that point onward 5%.

In case the General Reserve Fund, by reason of losses or by reason of an increase in the paid-up capital, falls below the amounts provided for above after having once attained them, the appropriate proportion of the yearly net profits shall again be applied until the position is restored.

(*e*) As long as the Plan is in force any remainder of the net profits after meeting the foregoing requirements shall be disposed of as follows:

(i) as to 75% to such of the Governments or central banks of Germany and the countries entitled to share in the annuities payable under the Plan, as have maintained time deposits at the Bank subject to withdrawal in not less than five years from the time of deposit or after four years on not less than one year's notice. This sum shall be distributed annually in proportion to the size of the deposits maintained by the respective Governments or central banks in question. The Board shall have the power to determine the minimum deposit which would justify the distribution provided for;

(ii) as to 25% as follows:

If the German Government elects to make a long-term deposit with the Bank withdrawable only on the terms specified under subclause (i) above and amounting to the minimum sum of 400,000,000 Reichsmarks, the said 25% shall go into a Special Fund, to be used to aid Germany in paying the last 22 annuities provided for in the Plan.

If the German Government elects to make such long-term deposit amounting to a sum below 400,000,000 Reichsmarks, the participation of the German Government shall be reduced in proportion and the balance shall be added to the 75% referred to in subclause (i) above.

If the German Government elects not to make any such long-term deposit, the said 25% shall be distributed as provided in subclause (i) above.

The Special Fund referred to above shall carry compound interest, reckoned on an annual basis, at the maximum current rate paid by the Bank on time deposits.

If the Special Fund should exceed the amount required to pay the last 22 annuities, the balance shall be distributed among the Creditor Governments as provided for in the Plan.[1]

(*f*) At the expiration of the period referred to in the first paragraph of subclause (*e*) the disposal of the remainder of the net profits referred to in subclause (*e*) shall be determined by the General Meeting on the proposal of the Board.

[1] "The excess of the fund . . . will be divided among the creditor Governments in accordance with the arrangements to be concluded between them when the time comes." (No. 6 of arrangement between the creditor powers, *Agreements*, p. 144.)

Reserve Funds

ART. 54. The General Reserve Fund shall be available for meeting any losses incurred by the Bank. In case it is not adequate for this purpose, recourse may be had to the Legal Reserve Fund provided for in Art. 53 (*a*).

These reserve funds, in the event of liquidation, and after the discharge of the liabilities of the Bank and the costs of liquidation, shall be divided among the shareholders.[1]

CHAPTER VII. GENERAL PROVISIONS

ART. 55. The Bank may not be liquidated except by a three-fourths majority of the General Meeting. It shall not in any case be liquidated before it has discharged all the obligations which it has assumed under the Plan.

ART. 56. (1) If any dispute shall arise between the Bank, on the one side, and any central bank, financial institution or other bank referred to in the present Statutes, on the other side, or between the Bank and its shareholders, with regard to the interpretation or appli-

[1] Sec. X, Reserve Requirements, of Annex I of the Experts' Report reads:

"100. The Bank, since its deposits in part will be derived from central banks, shall be administered with particular regard to maintaining its liquidity. For this purpose the bank shall observe the following reserve requirements:

"101. (1) Deposits on Clearing Account. All funds held by the bank on clearing account, whether gold in vault or gold under earmark for the bank's account in central banks, shall be reserved for exclusive use in effecting settlements among the depositaries in the account.

"102. (2) Deposits Payable on Demand. Against such deposits the bank shall hold a minimum of 40% in gold or in devisen at their gold value. Devisen eligible as reserve against demand deposits shall consist of bank-notes; prime bills of exchange having not more than 90 days to run, of a character which central banks ordinarily buy for their own account; and checks payable on demand, drawn or indorsed by central banks, or in respect of which three obligees including a bank of known solvency are responsible. All devisen included in the foregoing classifications shall be denominated in currencies which satisfy, in the opinion of the Board of Directors, all the practical requirements of the gold or gold exchange standard. Gold in transit or devisen satisfying the foregoing requirements which are in process of collection may be counted as reserve.

"103. (3) Deposits on Investment Account (Time Deposits). Deposits payable in fifteen days or less shall be classified as demand deposits and be subject to the reserve requirements specified in the preceding paragraph. Against investment account deposits of longer maturity the bank shall hold a minimum of 25% in gold or in devisen at their gold value. Devisen eligible as reserve against investment account deposits shall meet the same requirements as those eligible as reserve against demand deposits.

"104. If the Board of Directors is of opinion that these reserve requirements should be altered, they shall have the right by a two-thirds vote to increase, diminish or otherwise modify them consistently with sound banking principles."

cation of the Statutes of the Bank, the same shall be referred for final decision to the tribunal provided for by the Hague Agreement of January, 1930.

(2) In the absence of agreement as to the terms of submission either party to a dispute under this article may refer the same to the tribunal, which shall have power to decide all questions (including the question of its own jurisdiction) even in default of appearance by the other party.

(3) Before giving a final decision and without prejudice to the questions at issue, the president of the tribunal, or, if he is unable to act in any case, a member of the tribunal to be designated by him forthwith, may, on the request of the first party applying therefor, order any appropriate provisional measures in order to safeguard the respective rights of the parties.

(4) The provisions of this article shall not prejudice the right of the parties to a dispute to refer the same by common consent to the president or a member of the tribunal as sole arbitrator.

ART. 57. In all cases not covered by the preceding article, or by some other provision for arbitration, the Bank may proceed or be proceeded against in any court of competent jurisdiction.

ART 58. For the purposes of these Statutes:

(1) Central bank means the bank in any country to which has been intrusted the duty of regulating the volume of currency and credit in that country; or, where a banking system has been so intrusted, the bank forming part of such system which is situated and operating in the principal financial market of that country.

(2) The Governor of a central bank means a person who, subject to the control of his board or other competent authority, has the direction of the policy and administration of the bank.

(3) A two-thirds majority of the Board means not less than two-thirds of the votes (whether given in person or by proxy) of the whole directorate.

ART. 59. Amendments of any articles of these Statutes other than those enumerated in Art. 60 may be proposed by a two-thirds majority of the Board to the General Meeting and if adopted by a majority of the General Meeting shall come into force, provided that such amendments are not inconsistent with the provisions of the articles enumerated in Art. 60.

ART. 60. Arts. 2, 3, 4, 9, 15, 20, 25, 28, 46, 53, 56, 59 and 60 can not be amended except subject to the following conditions: The amendment must be adopted by a two-thirds majority of the Board, approved by a majority of the General Meeting and sanctioned by a law supplementing the Charter of the Bank.

2. FORM OF TRUST AGREEMENT BETWEEN THE CREDITOR GOVERNMENTS AND THE BANK FOR INTERNATIONAL SETTLEMENTS[1]

Entered into this day of , 1930, between the Governments of , et cetera (hereinafter called the Creditor Governments), of the one part, and the Bank for International Settlements (hereinafter called Trustee), of the second part,

Witnesseth:

Whereas the Creditor Governments, in connection with the carrying out of the New Plan as defined in the Hague agreement of January, 1930 (hereinafter called the Plan), desire jointly to appoint the Bank for International Settlements their joint and sole trustee to receive, manage and distribute the annuities payable by Germany, and to perform other functions with respect thereto, all as provided by the Plan; and within the limits of the Statutes of the Bank.

Whereas the Bank for International Settlements has taken note of the provisions of the Plan and is prepared to accept the appointment as such trustee;

Therefore, it is agreed between the parties hereto that the description, the conditions and the limitations of the functions of the Trustee with respect thereto and of the relations, obligations and rights of the parties are those set forth as follows:

ARTICLE I. The Creditor Governments jointly appoint the Bank for International Settlements their joint and sole trustee for the purposes herein defined. The Bank accepts the appointment and agrees to carry out the trust on the conditions herein stated.

ART. II. The Trustee is empowered and agrees,

(*a*) To receive any balances transferred by the Agent General for Reparation Payments on the winding up of his accounts, subject to the rights of the different Creditor Governments in the distribution of such balances and to any claims and commitments thereon which may be outstanding at the time of transfer, all of which, as shown by the records of the Agent General for Reparation Payments, will be reported to the Trustee when the transfer is made;

[1] Annex VIII to the agreement with Germany of January 20, 1930, *Agreements*, p. 68; *Entwürfe zu den Gesetzen*, p. 156.

(*b*) To hold in safekeeping as trustee, until the same shall be duly discharged, the Certificate of Debt, with coupons attached, issued and delivered by the German Government pursuant to the terms of the Plan, the receipt of which the Trustee acknowledges and a copy of which is attached hereto as Exhibit A;

(*c*) To hold in safekeeping as trustee, until the same shall be duly discharged, the Certificate issued and delivered by the German Railway Company in acknowledgment of its liability, pursuant to the terms of the Plan, the receipt of which the Trustee acknowledges and a copy of which is attached hereto as Exhibit B;

(*d*) Commencing on , 1930, to receive in trust each month from the German Reich for the account of the Creditor Governments signatory hereto and for the account of the Trustees of the German external loan of 1924 all payments thereafter to be made by Germany under the Plan and the above mentioned Certificate of Debt, representing the service of the said loan or the payment of the sums attributable to the said Creditor Governments on account of the nonpostponable annuities and the postponable annuities as defined and specified in the Plan.

A certified Schedule stating the monthly and annual share during the whole period of the annuities of each Creditor Government signatory hereto in the nonpostponable and postponable portions and in the total of the German annuity is attached hereto as Exhibit C.

Art. III. Except during a period when the transfer of the postponable annuity is suspended, as provided for in Art. XI below, the Trustee will accept only currencies other than Reichsmarks in payment of the monthly instalments of the annuities payable by Germany, subject always to the proviso that the Trustee may accept Reichsmarks in each month of a given annuity year, for an amount equal to one-twelfth of the total of any current annual program for payments under delivery in kind and reparation recovery act procedures for the year in question.

In arranging for the receipt of currencies other than Reichsmarks, the Trustee, after having been notified of the requirements of the Creditor Governments, will inform the German Government and, at the same time, the Reichsbank, at least one month in advance of the due dates for payment, of its preferences relative to the currencies which it desires to have paid into its account. If these preferences are not complied with the Trustee is authorized to ac-

cept payment from Germany entirely in the currencies of the creditor countries whose nationals were members of the Committee of Experts and as nearly as may be in proportion to the respective shares of these countries, it being understood that payments in currencies other than Reichsmarks which are not based upon the gold or gold exchange standard will only be made with the consent of the Trustee.

The Trustee will give receipts to the German Government for all sums which it pays or causes to be paid both on account of the postponable and on account of the nonpostponable annuity. These receipts will show the currencies received as well as the equivalent value in Reichsmarks, with which the German Government will be credited.

At the end of each annuity year, when the Trustee has received from the German Government the sums due for that year, in accordance with the Plan, the Trustee shall surrender to the German Government the coupon of the certificate of the German Government which corresponds to the payments of the year in question.

The Trustee takes note of the undertaking given by the German Government that the Reichsmark shall have and shall retain its convertibility in gold or foreign exchange as provided in Sec. 31 of the Law of August 30, 1924, and that, in all circumstances, for the general purposes of the Plan, the Reichsmark shall have and shall retain a mint parity of 1/2790 kilogram of fine gold, as defined in the German coinage law of August 30, 1924.

The sums paid in currencies other than Reichsmarks into the Annuity Trust Account shall be calculated in Reichsmarks, subject to the provisions of the above undertaking, at the average of the middle rates (*Mittelkurs*) prevailing on the Berlin Bourse during the period of 15 days preceding the date of payment.

The sums in Reichsmarks paid by the German Railway Company to the account of the Trustee at the Reichsbank under the terms of the above-mentioned Certificate of Liability delivered by that company, for an amount of fifty-five million Reichsmarks on the first day of each month in respect of the previous month, shall, until the due discharge of the certificate be placed each month at the disposal of the German Government by the Trustee as soon as they have been received, provided that the instalment of the Annuity payable by the German Government on the 15th day of the preceding month has been duly received.

ART. IV. All the sums transferred from the account of the Agent General for Reparations or paid on account of the German annuities shall be received into an Annuity Trust Account. All the sums paid by Germany on account of the annuities shall be managed by the Trustee and shall be employed and distributed each month upon receipt as follows, on the understanding that the obligations of the Trustee in regard to the said sums shall be only those normally incumbent upon a banker for the execution of a trust agreement, and in no case shall the Trustee permit the accounts or credits of any Creditor Government to be overdrawn.

(*a*) In the first place, the sums required monthly for the service of the German External Loan, 1924, shall be transferred to the account or order of the trustees of the said loan, in conformity with the terms of the General Bond securing it, on the understanding that this appropriation shall have priority over all others. This service constitutes a first charge, expressly provided for as such, on the German annuities, whether nonpostponable or postponable.

(*b*) One-twelfth of the share of each Creditor Government in the nonpostponable annuity shall be forthwith allocated in the books of the Trustee to that Government within the Annuity Trust Account in currencies other than Reichsmarks. If one of the Governments has mobilized a part of the nonpostponable annuity allotted to it, there shall be retained every month, out of the share due to that Government in virtue of the present paragraph, the sums required for the service of the obligations issued and outstanding, in conformity with the conditions of the contracts made on the occasion of such issues; these sums, deducted from the share of each of the Governments concerned in the issues, shall be transferred each month to a Trustee Account relating to the loan thus issued and shall remain there until the moment when payments have to be made for the interest service and amortization of the obligations, in accordance with the terms of the respective loan agreements.

(*c*) One-twelfth of the share due to each Government for settling the quota of deliveries in kind allotted to it in a given year shall be forthwith allocated in the books of the Trustee to that Government within the Annuity Trust Account in Reichsmarks, if no other provision has been made by the Governments concerned, including Germany, for the settlement of this quota.

(*d*) One-twelfth of the sum due to each Government in each Annuity, after the allocations provided in pars. (*b*) and (*c*), shall

be forthwith allocated in the books of the Trustee to that Government within the Annuity Trust Account in currencies other than Reichsmarks.

(*e*) In application of Art. 88[1] of the annexes to the Experts' Report of June 7, 1929 (hereinafter called the "Experts' Report"), the sums allocated as provided in the preceding paragraphs will remain without interest in the National Subdivisions of the Annuity Trust Account up to the equivalent of the following minimum amounts:

	Reichsmarks
France	68,037,500
Great Britain	26,587,500
Italy	13,887,500
Belgium	7,512,500
Rumania	1,312,500
Yugoslavia	5,462,500
Greece	450,000
Portugal	862,500
Japan	862,500
Poland	25,000
	125,000,000

All sums standing in the National Subdivisions of the Annuity Trust Account in excess of the above minimum non-interest-bearing deposits, may be freely withdrawn from the said account by the Creditor Governments, in accordance with the following paragraph.

(*f*) Subject to the foregoing, and in accordance with the provisions of the Plan, the Trustee is authorized and agrees to transfer at such dates as may be indicated any sum allocated to any Government within the Annuity Trust Account to any interest-bearing account in the Bank for International Settlements or to any other bank or banker, or otherwise to dispose of it as the interested Creditor Government may direct; but in no case will the Trustee

[1] The paragraph reads:

"88. (12) Out of the sums remaining in currencies other than Reichsmarks and after providing for any other charges called for under the Plan, the Directors of the Bank shall distribute such aggregate amounts as they may determine to the creditor countries, divided according to the propositions agreed upon among the respective Governments. In withholding any sums from distribution and in fixing the dates at which distribution is effected, the Directors of the Bank shall be guided on the one hand by the need for prompt action in the interest of the creditor countries and on the other by the interests of the Plan as a whole, including due consideration to the Bank by way of compensation for its services in managing the annuity."

permit the accounts or credits of any Creditor Government to be overdrawn.

ART. V. The Trustee shall not be bound to pay any interest on balances in the Annuity Trust Account.

ART. VI. Any exchange profit or loss arising from transactions carried out by the Trustee for account of Creditor Governments in connection with the management of the German annuities shall unless otherwise settled be credited or charged quarterly by the Trustee to the accounts of the Governments concerned, in proportion to their respective shares in the principal moneys involved, subject to the provisions of Art. IV.

ART. VII. The Trustee is authorized and agrees in connection with delivery in kind, reparation recovery act and other similar systems, to pay in Reichsmarks up to the amount of the monthly Reichsmark balances available to the respective Creditor Governments on checks, drafts or orders duly executed by the authorized representative of any such Creditor Government. The Creditor Governments respectively agree to keep the Trustee advised of the identity and authority of such representatives and to supply it with their specimen signatures.

ART. VIII. Payment by the Trustee in compliance with the documents referred to in the preceding article shall constitute full discharge to the Trustee for the Reichsmark payments made. Payments in currencies other than Reichsmarks made or transferred out of the Annuity Trust Account upon the order of a Creditor Government or effected under the authorizations contained in Art. IV above, shall constitute a full discharge to the Trustee for the payments made. In addition, as soon as possible after the close of each annuity year when the respective Creditor Governments shall have received the annual account and auditor's report referred to in Art. XVII hereof, the competent authority of each Creditor Government shall give the Trustee a final global quittance and release for the actual payments made, during the annuity year in question to or upon the order of the Creditor Government concerned, as disclosed by the said accounts.

ART. IX.[1] The Trustee declares that it has taken note that the German Government undertakes during the period up to March 31, 1966, to maintain at the Bank a non-interest-bearing deposit equivalent to 50% of the average deposit remaining in the Annuity Trust Account, but not exceeding 100 million Reichsmarks.

[1] The article repeats the undertaking of Art. VI of the Certificate of Indebtedness.

The Bank shall to this end certify to the German Government and to the Creditor Governments every month the average of the balances at the close of each working day left by the Creditor Governments on deposit without interest during that month, in respect of the sums arising from the German payments under the Dawes Plan or under the present Plan up to the time when they are drawn out by the Creditor Governments.

The first deposit will be paid by the German Government to the Bank 15 days after the coming into force of the New Plan, the amount of the deposit being calculated on the average of the daily balances above mentioned left with the Agent-General or the Bank during the month ending two working days prior to the date of deposit, excluding sums returnable to the German Government under Annex III of the Hague Protocol of August 31, 1929, or any supplementary arrangement.[1] The deposit shall be maintained at the amount so calculated during one month. At the end of this period the deposit will be adjusted by a further deposit or by the withdrawal of part of the existing deposit on the basis of the average of the daily balances referred to above during the month ending two working days before the date of the adjustment. A similar adjustment will take place at the end of the second month from the date of the first deposit. At the end of the third month, and thereafter at intervals of three months, the deposit shall be adjusted on the basis of the average of the daily balances referred to above during the three months ending two working days before the date of each such adjustment. The intervals referred to in this paragraph may be changed by agreement between the Governments concerned with the concurrence of the Trustee.

The Trustee will accept this deposit under the conditions set out in this article.

Art. X. The Trustee declares that it has taken note of the provisions of the Plan with respect to the functions assigned to the Bank of International Settlements in connection with any declaration of the German Government requiring the convening of the Special Advisory Committee, and the Trustee agrees and the Creditor Governments confirm that the Trustee shall carry out

[1] By the arrangements referred to, surpluses of Dawes Plan receipts over New Plan requirements were invested by the Agent-General from September 1, 1929, until the formal entrance into force of the New Plan in Germany treasury bills (*Reichsschatzanweisungen*). The nominal amount so invested on February 28, 1930, was 224,900,000 Reichsmarks. The supplementary arrangement referred to is a transitory provision printed in *Agreements*, p. 141; *Entwürfe zu den Gesetzen*, p. 308.

the functions assigned it in that respect and in the manner described in the Plan.[1]

The Trustee takes note that, in application of Art. 124 of the Experts' Report, any recommendation of the Advisory Committee affecting the rights of the Creditor Governments shall not bind those Governments unless it is accepted and confirmed by the Creditor Governments which participated in the decision of September 16, 1928, to set up the Committee of Experts; and that similarly any recommendation affecting the rights of the German Government shall not bind that Government unless it is accepted and confirmed by that Government.

ART. XI. Immediately on receiving from the German Government in conformity with the Plan notification of suspension of transfer of the whole or part of the postponable annuity the Trustee shall inform the Creditor Governments accordingly.

(*a*) As soon as this suspension becomes effective:

(1) The Trustee shall continue to transfer each month the sums necessary for assuring the service of the external loan of 1924 in accordance with par. *a*, Art. IV of this contract;

(2) The Trustee shall continue to credit or transfer each month in accordance with the provisions of par. *b*, Art. IV, of this contract the sums paid by the German Government in respect to the nonpostponable annuity;

(3) In the event of a partial postponement, in any year, of transfer or of payment of the postponable annuities, the Trustee shall distribute the part of the postponable annuities actually paid and transferred in that year in such a manner as to insure, so far as may be possible, that the receipts of the several Creditor Governments out of the aggregate payments actually transferred by Germany (whether on account of the unconditional or of the postponable annuities) shall be proportionate to their respective shares in the total annuities due by Germany under the Plan in respect of that year, provided always that the Creditor Governments entitled to an allocation out of the unconditional annuities shall in no case receive less than the allocations due to them respectively out of those annuities;

(4) Should the amount of the postponable annuities paid and transferred by Germany be insufficient to provide in full to each of the Creditor Governments its due share of the total German payments transferred, having regard to the allocations out of

[1] See Report, par. 119 *ff*.

the unconditional annuity referred to in the previous paragraph, the Trustee shall, in accordance with the provisions of par. 202 of the Annexes to the Experts' Report[1] withdraw from the Guaranty Fund, to be constituted by the French Government, the sums necessary to make up the deficiency to each of the Creditor Governments concerned. The sums so withdrawn from the Guaranty Fund shall be repaid to that fund in accordance with the Plan at the end of the period of postponement.

(*b*) During the course of a partial or total postponement of transfer the Trustee may accept from Germany payments in Reichsmarks in respect of the amounts of which transfer has been postponed and of which payment has not been postponed under the Plan. The Trustee is authorized to give to the German Government receipts for such payments which will be in the nature of temporary acknowledgments. These acknowledgments will be converted into final receipts *pro tanto* on the transfer of the amounts postponed, or on the utilization of the Reichsmarks accepted by the Trustee under this paragraph for payments in respect of deliveries in kind or in respect of reparation recovery acts and similar procedures under the special programs referred to in Annex IV of the Experts' Report.[2]

(*c*) Any sums accepted in Reichsmarks by the Trustee under par. (*b*) above will be distributed in the form of credits in the Trustee's books in such a way as to complete the credits due to each Creditor Government for the year in question under the Plan, and the Guaranty Fund in so far as it has been drawn upon. These Reichsmarks will be administered by the Trustee in the manner provided in the Plan.

(*d*) The parties to this contract agree that all investments of such Reichsmark funds effected by the Trustee shall be made for the individual account of the Creditor Governments, as their interests require, for their advantage and at their risk. In particular the proceeds of investment of Reichsmarks credited to the Guaranty Fund will be assigned to the French Government.

Art. XII. The Creditor Governments and the Trustee agree that the Trustee shall have exclusive authority to act as agent of the Creditor Governments or any one of them, so far as concerns the operations relating to the mobilization of the German annuities, and that in the discharge of the functions and in the use of the

[1] See p. 188.

[2] See for final form, p. 191, as enacted in the Hague protocol.

authority intrusted to it as agent in this matter the Trustee will be guided by the provisions of the Plan which govern mobilization. In particular, the Trustee will abide by the following provisions:

(*a*) When it appears to the Trustee practically possible to proceed with an issue of bonds representing the capitalization of a part of the Annuity, the Trustee will inform the Creditor Governments. The possibility of proceeding with such an operation shall also be considered by the Trustee whenever so required by one or more of the Creditor Governments.

If after examination, and in cases other than that dealt with in the second part of par. (*b*) below, the Trustee considers such an operation inopportune, it shall indicate to the Governments concerned the reasons for this opinion.

(*b*) If one or more of the Governments concerned intend themselves to proceed in their own markets with an issue, the Trustee shall fix the minimum conditions of issue at the time of the operation.

If, however, such an operation is intended in connection with internal conversion operations, the Government concerned will be free to offer the bonds on its own market on whatever conditions it may be able to obtain, without its being necessary for the Trustee to consider whether the creation of the bonds is opportune, and on the understanding that the bonds will only be quoted on the market of issue.

(*c*) If one or more of the Governments concerned propose an international issue on other markets than their own respective markets, the Trustee shall at their request, if it considers on examination that conditions on these markets permit such an operation, take steps to proceed with this issue and determine, after making sure that the Central Banks concerned have no objection, the markets on which such offers may be made.

In the case of such issues, the various Governments having a share not yet mobilized in the nonpostponable portion of the Annuity shall be given the right to participate in proportion to the following figures: France 500, Great Britain 84, Italy 42, Japan 6.6, Yugoslavia 6, Portugal 2.4.

No issue of an international character may however be made in the market of any of the countries the Government of which has signed this Trust Agreement without the approval of that Government both as regards the amount of the issue and as regards the conditions on which it shall be authorized.

(*d*) If it is decided to proceed with an issue and if one or more of the Creditor Governments so request, the Trustee shall arrange,

in agreement with those Governments and with the Issuing Bankers, the detailed conditions on which the bonds shall be issued.

(*e*) The Trustee shall apply to the German Government, as provided in the Plan, for the creation of issuable bonds.

(*f*) The Trustee declares its willingness to act as trustee or representative of the bondholders, or as agent for all issues of bonds made in pursuance of the provisions of the Plan relative to mobilization, to the extent provided in the loan contract to be concluded between the Trustee and the Governments concerned on the occasion of an issue of such obligations.

(*g*) The expenses and commissions to be received by the Trustee both for the creation of bonds and for their issue shall be determined between the Trustee and the Governments concerned with regard to the importance of the functions which may be attributed to it on the occasion of each operation.

Art. XIII. The Trustee will credit to a special Trust Account the deposits which the French Government has undertaken to make, in the circumstances contemplated in the Plan, up to an amount of 500,000,000 Reichsmarks, in currencies other than Reichsmarks based upon the gold or gold exchange standard.

The Trustee undertakes to administer these funds in such a way that the sums deposited shall be available in currencies other than Reichsmarks, based upon the gold or gold exchange standard, in order to equalize the short payments to the other creditors during a period of transfer postponement.

Subject to the provisions of Art. XI (*c*) and (*d*), the Trustee will pay interest to the French Government, at the maximum current rate paid for long-term deposits, on the amount standing in this account in currencies other than Reichsmarks.

If it is agreed that this deposit shall remain for more than five years, the French Government shall be entitled to participate in the profits of the Bank in respect of this deposit on the terms laid down in Art. 53, (e) and (i), of its Statutes. It shall be restored to the French Government in the circumstances contemplated in the plan.

Art. XIV. If the German Government elects to make the long-term deposit up to 400,000,000 Reichsmarks provided for in the Plan, the Trustee agrees to receive and administer this deposit and to take the consequent measures for allocation and utilization of its profits according to the provision of Art. 53, (*e*) of the Statutes of the Bank.

Art. XV. In addition to making disbursements and keeping accounts in connection with deliveries in kind, reparation recovery

acts and other similar systems as above provided, the Trustee declares that it takes note of the arrangements regarding deliveries in kind and reparation recovery acts contained in the relevant annexes to the Hague agreement of January, 1930, and agrees to observe the same as far as lies within its province and powers as a bank as set forth in the Statutes.

ART. XVI. The Trustee is authorized and agrees with respect to the assigned revenues of the Reich to exercise the discretions referred to in Sect. 3 of Annex III of the Experts' Report.[1]

ART. XVII. The Trustee shall furnish to each Creditor Government at the close of each month an account showing all the receipts and payments of the Trustee during that period in respect of the annuity received from Germany. The Trustee shall also furnish to each Creditor Government as soon as may be after March 31 in the year 1931, and every succeeding year, a copy of the account as approved by the auditors of the Bank for International Settlements of all its operations in respect of the whole of the German annuities, including the service of the German external loan of 1924, since the close of the last preceding yearly account, or, in the case of the first account since the commencement of operations of the Bank, and of any report that may be made by the auditors on such accounts. The Bank shall also furnish to each creditor Government a copy of its Annual General Report as soon as published.

ART. XVIII. From the date of coming into force of the present contract until its completion, the Creditor Governments, in addition to maintaining the deposits referred to in Art. IV (*e*), agree to pay to the Trustee a commission of 1 per mille on the actual payments received from the German Government on their behalf, in respect of the remuneration provided in Art. 84 of the Annexes to the Experts' Report.

This payment will form a prior charge in favor of the Trustee, in accordance with the Plan, on the sums received by it on behalf of the Creditor Governments within the Annuity Trust Account.

The provisions of this article will remain in force failing any new arrangement; such new arrangement may be made at the end of the first or of any one of the first five financial years, at the request of one of the signatory powers or of the Trustee.

ART. XIX. The Trustee is authorized and agrees to notify forthwith to the Creditor Governments any difficulty which may arise

[1] *Cf.* for substance, Art. XVI, *supra*.

between it and the German Government relative to the interpretation or the application of the Plan.

ART. XX. The Creditor Governments and the Trustee agree that, if any dispute shall arise between them or any of them with regard to the meaning or application of the provisions of this Trust Agreement, the dispute shall be referred for final decision to the Tribunal provided for by the Hague agreement of January, 1930, unless the parties to the dispute shall elect to refer the same to the president of the Tribunal, or a member thereof, selected as sole arbiter.

ART. XXI. The present Contract shall come into force between the Trustee and the Creditor Governments whose representatives have signed it as soon as the Plan has been put into application and this Contract has been signed on behalf of the Trustee and of four of the following powers: Belgium, France, Great Britain, Italy and Japan.

The French text is alone authentic.

[Exhibit A] Debt Certificate of the German Government[1]

I. The German Government, by this present certificate, undertakes a solemn engagement subject to the stipulations of the New Plan as defined by Art. I of the agreement of The Hague of January, 1930, to pay to the Bank for International Settlements as Trustee for the Creditor Powers, and not to any other agent nor by way of direct payment to any one of its creditors, and in conformity with the following provisions, the annuities set out in the following table plus the sums required for the service of the German External Loan 1924 as provided in the General Bond dated October 10, 1924.[2] The annuities set out in the table [3] shall be paid by equal monthly instalments on the 15th of each month and if the 15th is not a working day then on the working day next following.

	Millions of Reichsmarks
Sept. 1, 1929–March 31, 1930	676.9
April 1, 1930–March 31, 1931	1,641.6
April 1, 1931–March 31, 1932	1,618.9
April 1, 1932–March 31, 1933	1,672.1
April 1, 1933–March 31, 1934	1,744.9
April 1, 1934–March 31, 1935	1,807.5
April 1, 1935–March 31, 1936	1,833.5
April 1, 1936–March 31, 1937	1,880.3

[1] Annex III to the agreement of January 20, 1930, *Agreements*, p. 31.

[2] Reparation Commission, *Official Documents*, XIV, p. 318.

[3] This table differs from the schedules in pars. 86 and 87 of the Report in that the quota of the United States there included has been here subtracted.

	Millions of Reichsmarks
April 1, 1937–March 31, 1938	1,919.8
April 1, 1938–March 31, 1939	1,938.1
April 1, 1939–March 31, 1940	1,983.4
April 1, 1940–March 31, 1941	2,096.1
April 1, 1941–March 31, 1942	2,114.6
April 1, 1942–March 31, 1943	2,131.9
April 1, 1943–March 31, 1944	2,128.2
April 1, 1944–March 31, 1945	2,141.4
April 1, 1945–March 31, 1946	2,137.7
April 1, 1946–March 31, 1947	2,133.4
April 1, 1947–March 31, 1948	2,149.1
April 1, 1948–March 31, 1949	2,143.9
April 1, 1949–March 31, 1950	2,240.7
April 1, 1950–March 31, 1951	2,283.1
April 1, 1951–March 31, 1952	2,267.1
April 1, 1952–March 31, 1953	2,270.1
April 1, 1953–March 31, 1954	2,277.2
April 1, 1954–March 31, 1955	2,288.5
April 1, 1955–March 31, 1956	2,283.7
April 1, 1956–March 31, 1957	2,278.1
April 1, 1957–March 31, 1958	2,285.7
April 1, 1958–March 31, 1959	2,317.7
April 1, 1959–March 31, 1960	2,294.5
April 1, 1960–March 31, 1961	2,304.4
April 1, 1961–March 31, 1962	2,322.2
April 1, 1962–March 31, 1963	2,314.1
April 1, 1963–March 31, 1964	2,326.5
April 1, 1964–March 31, 1965	2,326.0
April 1, 1965–March 31, 1966	2,352.7
April 1, 1966–March 31, 1967	1,566.9
April 1, 1967–March 31, 1968	1,566.1
April 1, 1968–March 31, 1969	1,575.9
April 1, 1969–March 31, 1970	1,589.2
April 1, 1970–March 31, 1971	1,602.9
April 1, 1971–March 31, 1972	1,613.1
April 1, 1972–March 31, 1973	1,621.5
April 1, 1973–March 31, 1974	1,624.9
April 1, 1974–March 31, 1975	1,627.6
April 1, 1975–March 31, 1976	1,634.2
April 1, 1976–March 31, 1977	1,637.9
April 1, 1977–March 31, 1978	1,644.6
April 1, 1978–March 31, 1979	1,654.7
April 1, 1979–March 31, 1980	1,659.6
April 1, 1980–March 31, 1981	1,670.5
April 1, 1981–March 31, 1982	1,687.6
April 1, 1982–March 31, 1983	1,691.8
April 1, 1983–March 31, 1984	1,703.3
April 1, 1984–March 31, 1985	1,683.5
April 1, 1985–March 31, 1986	925.1
April 1, 1986–March 31, 1987	931.4
April 1, 1987–March 31, 1988	897.8

The service of the German External Loan, 1924, shall constitute a part of the Annuities payable during the respective Annuity years until said loan is fully redeemed, and the amount required for the service of the loan in each Annuity year as determined by the Trustees

of said loan shall be added to the amounts specified in the foregoing table in determining the aggregate sum of each Annuity payable thereunder. The annual amounts payable for the service of the loan shall be treated as payments on account of the nonpostponable portion of the respective annuities and shall be transferred when received to the credit of the Trustees for the German External Loan, 1924.

II. [Secs. 1–3, 4, par. 1, 5 and 6 of this article state the conditions set forth in the Trust Agreement, Art. III, pars. 1–3, 5–6.]

4, par. 2. The Bank's receipt giving credit in Reichsmarks for payments made to the Bank for International Settlements by the German Government or on its behalf for the execution of the New Plan, shall during the normal operation of the New Plan constitute a complete and sufficient discharge of the obligations of the German Government with respect to such payments.

Should, however, transfer postponement be in whole or partial effect, the Bank's receipt giving credit in Reichsmarks shall constitute a complete and sufficient discharge of the obligations of the German Government with respect to all payments into the Annuity Trust Account made in foreign exchange and with respect to such portions of the payments made in Reichsmarks as in the opinion of the Bank provide current funds for deliveries in kind or services. As to the remainder, the receipt of the Bank shall be in the nature of a temporary acknowledgment only.

III. 1. To this certificate are attached coupons representing each the whole of one annuity payable, after deduction of the amounts required for the service of the German External Loan, 1924; each coupon is divided into two parts — Part A represents that part of the annuity which is mobilizable and nonpostponable; Part B the postponable portion of each annuity. Each part of the annuity coupon enjoys absolutely equal rights throughout except with regard to the possibility of postponement hereinafter provided for.[1]

2. The Bank shall distribute moneys in payment of the mobilized or mobilizable portions of the annuity coupon among the whole of the bondholders and the creditor Governments in proportion to the rights of each to share in the portion of the annuity coupons not subject to postponement, without allowing a priority of any kind to any tranche or to any claim. It will distribute the moneys relating to the nonmobilizable portions of the annuity coupons among the creditor Governments, the transfer of these moneys taking place only after the transfer of the moneys relating to the mobilized or mobilizable portion of the annuity coupon.[2]

IV. 1. The service of interest and amortization of the mobilizable or mobilized portions of the annuity coupons shall be paid to the Bank in currencies other than the Reichsmark by the German Reich without

[1] Repeats Report, Annex III, I (par. 124).

[2] Repeats Report, Annex III, VII (*b*) (par. 142).

any reservation, *i.e.*, on its own responsibility. The financial service of these mobilizable or mobilized portions of the annuities shall constitute a final and unconditional international obligation in the ordinary financial sense of the word.[1]

2. Furthermore, upon the request of the Bank for International Settlements, acting as trustee of the Creditor Powers, if and in so far as the Bank considers such a course opportune, Germany undertakes to substitute for Part A of the coupons issuable bonds bearing its name, representing, on the same conditions as this certificate and the said coupons, an obligation of the Reich. The amount and form of these bonds and the specifications of the currency in which they shall be issued shall be fixed by the Bank.

3. If any one or more of the Creditor States should intend to utilize internal issues of German bonds in connection with operations for the conversion of national debt, such bonds shall be quoted only on their market of issue.[2]

4. If and in so far as Germany shall redeem reparation loans (general or conversion loans) which can be redeemed before their due date according to the issue conditions, the part of the annuity destined for the service of the loan so redeemed will accrue to Germany. It is understood that the Bank will, as far as possible, make every effort to secure that loans will not be issued without granting to Germany an appropriate right of anticipated redemption.

5. Germany shall have the right to redeem all or part of the not yet mobilized annuities (Parts A and B of the coupons) on a basis of 5½% discount.

V.[3] 1. The payment of the nonmobilizable portion of the annuity coupons shall be made to the Bank for International Settlements by the German Government in the same conditions as that of the mobilized or mobilizable portion of the annuity coupons.

2. Nevertheless,

(*a*) Bonds representing the nonmobilizable portion of the annuity coupons can not be created except with the consent of the German Government.

(*b*) It is in respect of the nonmobilizable portion of the annuity coupons that the German Government may avail itself of the right of postponing transfer or payment on the following conditions.

3. The German Government, by giving at least 90 days' previous notice, shall have the right to suspend for a maximum period of two years from its due date all or part of the transfer of the postponable part of the annuity. Transfer postponement thus declared shall affect the postponable annuity as and from that date on which transfer postponement becomes effective.

[1] Repeats Report, Annex III, V (par. 137).

[2] Repeated in Trust Agreement, Art. XII (*b*).

[3] Pars. 1–8 repeat Report, Annex III, VI (pars. 139–140) and Annex IV, 1, 3–5 (pars. 147, 148, 150–154).

4. If, during any annuity year, the German Government shall avail itself of this power, the transfers falling due during any second year can not be postponed for more than one year from their respective due dates, unless and until the transfers due during the first year shall have been effected in full, in which case the transfers due during such second year may be postponed two years from their respective due dates; and the transfers due during any third year can not be postponed at all until the transfers due during the first year have been effected in full.

5. At any time when postponement of transfer is in effect but not until one year after it has become effective, the German Government shall have the right to postpone payment for one year of 50% of any sum the transfer of which shall then be susceptible of postponement under the conditions stated above. This percentage may be increased upon the recommendation of the Advisory Committee provided for in Part 8 (*e*) of the Report of the Experts of 1929.

6. Any sum in Reichsmarks the transfer of which is postponed shall be deposited to the account of the Bank for International Settlements at the Reichsbank for eventual release of balances not absorbed by deliveries in kind, against payments in foreign currencies by the German Government. At all times the employment, whether for investment or for deliveries in kind, of Reichsmarks so deposited shall be subject to agreement between the Reichsbank and the Bank for International Settlements.

7. In settling the way in which these sums are to be employed account shall be taken of the possibility of establishing special programs in conformity with the procedure, provision for which is made in Appendix 1 to Annex II to the Hague Protocol of August 31, 1929.[1]

8. Interest at the rate of 1% per annum above the prevailing Reichsbank discount rate, or 5½%, whichever is lower, shall be paid half-yearly by the German Government on the daily amount of the sums the transfer or payment of which has been postponed and which have not been invested or utilized for deliveries in kind. This interest shall be treated in all respects similarly to the principal sum upon which it accrues, and the return upon that portion of the funds actually invested shall be for the account of the Creditor Powers.

9. At the end of any period in respect of which a total or partial postponement of transfer or payment has been declared for any monthly instalment, the instalment or part thereof the transfer or payment of which has been so postponed shall become immediately payable to the Bank for International Settlements in foreign currencies, with the exception of any amounts of which the Creditor Powers have already had the benefit in some other form in pursuance of the New Plan. This clause modifies in no way the functions of the Special Advisory Committee provided for in the New Plan.

[1] See page 191.

10. In the event of any declaration of postponement made by Germany or at any other time when the German Government declares to the Creditor Governments and to the Bank for International Settlements, that it has come to the conclusion in good faith that Germany's exchange and economic life may be seriously endangered by the transfer in part or in full of the postponable portion of the annuities, the Bank for International Settlements shall convene the Special Advisory Committee mentioned in Chapter 8 (*e*) of the Experts' Plan of June 7, 1929.

The Special Advisory Committee shall forthwith consider the situation in all its aspects, as provided in the Plan, and shall indicate for consideration by the Governments and the Bank what, in their opinion, are the measures that should be taken in regard to the application of the Plan. In application of Art. 124 of the Report of the Experts of June 7, 1929, any recommendation of the committee affecting the rights of the Creditor Governments shall not bind the Creditor Governments unless it is accepted and confirmed by the Creditor Governments who participated in the decision of September 16, 1928, to set up the Committee of Experts. Similarly, any recommendation affecting the rights of the German Government shall not bind the German Government unless it is accepted and confirmed by that Government.

VI. [The declaration textually repeated in the Form of Trust Agreement, Art. IX, p. 225.]

VII. As a collateral guaranty the German Government, without prejudice to its general liability for payment of the annuities and its complete freedom to make these payments out of its general revenues and without prejudice to the securities for the German External Loan, 1924, assigns, in pursuance of the provisions of the relative Annex [XI] of the agreement of The Hague of January, 1930, the proceeds of the customs, tobacco, beer and alcohol (monopoly administration) duties to the service of the present certificate, including the service of any bonds which may be issued in accordance with the New Plan.

The proceeds of the annual direct tax of 660,000,000 Reichsmarks payable by the German Railway Company are also assigned as a collateral guaranty to the service of the annuities. The amounts of the obligation of the German Railway Company will be paid in accordance with the Certificate of Debt of that company on the first day of each month, and if the full amount of the previous monthly payment due by the German Government has been paid, the amounts so paid by the German Railway Company will be transferred, immediately on their receipt, to the German Government.

VIII. The obligation of the German Government in relation to the annuities for which this certificate provides shall not be deemed to have been fulfilled until all sums, the transfer or payment of which may from time to time have been suspended, have been either in fact completely transferred to the Bank for International Settlements in

the shape of approved currency other than the Reichsmark or employed for deliveries in kind.[1]

IX. At the end of each annuity period, when the Bank for International Settlements has received from the German Government the amounts due under this present certificate, the Bank will return to the Government the coupon corresponding to the payments of that annuity period.[2] The certificate itself will be delivered when all the coupons have been paid.

X. The foregoing provisions shall not be deemed to affect the provisions of the New Plan, which are not dealt with in this certificate.

[1] Enacts Report, Annex IV, 2 (par. 149).

[2] *Cf.* Trust Agreement, Art. III, par. 4.

III. INTERGOVERNMENTAL INDEBTEDNESS

1. ARRANGEMENT RELATING TO THE CONCURRENT MEMORANDUM ACCOMPANYING THE EXPERTS' PLAN OF JUNE 7, 1929[1]

The duly authorized representatives of the Governments of Belgium, France, Great Britain and Northern Ireland, Greece, Italy, Portugal, Rumania and Yugoslavia have agreed with the German Government as follows:

(1) The creditor powers undertake that Germany shall on the conditions contained in the Annex hereto (which is a reproduction of the "Concurrent Memorandum" attached to the Report of the Experts' Committee of June 7, 1929) have the benefit of any relief which any one or more of these powers may receive in respect of its net outward payments on account of War Debts. The War Debts referred to in this clause are those dealt with by the following agreements:

Interallied debts which have been taken into consideration in calculating the annuities according to the Young Plan

(1) *To the United States of America*[2]

Great Britain: Agreement of June 18, 1923,
France: Agreement of April 29, 1926,
Italy: Agreement of November 14, 1925,
Belgium: Agreement of August 18, 1925,
Yugoslavia: Agreement of May 3, 1926,
Rumania: Agreement of December 4, 1925,
Greece: Agreement of January 18, 1928.

[1] Document 7 of the Hague Final Act, *Agreements concluded at the Hague Conference January, 1930*, p. 129 (Misc. No. 4 (1930), Cmd. 3484; *Entwürfe zu den Gesetzen über die Haager Konferenz*, p. 248.

[2] The texts of the agreements are in *Combined Annual Reports of the World War Foreign Debt Commission:* Great Britain, p. 106; France, p. 257; Italy, p. 222; Belgium, p. 171; Yugoslavia, p. 280; Rumania, p. 244; Greece, Public Act 747, approved February 14, 1929.

(2) *To Great Britain* [1]

France: Agreement of July 12, 1926,
Italy: Agreement of January 27, 1926,
Rumania: Agreement of October 19, 1925,
Yugoslavia: Agreement of August 9, 1927,
Portugal: Agreement of December 31, 1926,
Greece: Agreement of April 9, 1927.

(3) *To France*

Rumania: Agreement of January 17, 1930,
Yugoslavia: Agreement of January 20, 1930 (dealing with the War Debt),
Greece: Agreement of January 20, 1930 (provisions relating to the prearmistice debt — Tranche A).

(2) Any dispute between the contracting parties as to the interpretation or application of the agreement shall be submitted for final decision to the Tribunal established by the Agreement with Germany concluded at The Hague in January, 1930.

(3) This arrangement, of which the English and French texts are equally authentic, shall be ratified, and shall go into force for each Government after ratification by it, at the same time as the agreement with Germany for the complete and final settlement of the question of reparations concluded on this same day at The Hague goes into force.

Done at The Hague this 20th day of January, 1930.

CURTIUS.	N. POLITIS.
WIRTH.	J. G. POLITIS.
SCHMIDT.	A. MOSCONI.
MOLDENHAUER.	A. PIRELLI.
HENRI JASPAR.	SUVICH.
PAUL HYMANS.	G. G. MIRONESCO.
E. FRANCQUI.	J. LUGOSIANO.
HENRI CHERON.	AL. ZEUCEANO.
LOUCHEUR.	Dr. V. MARINKOVICH.
PHILIP SNOWDEN.	CONST. FOTICH.

[1] The texts of the agreements are published in British Parliamentary Papers, France, Cmd. 2692; Italy, Cmd. 2580; Yugoslavia, League of Nations, *Treaty Series*, LXIX, p. 256; Portugal, Cmd. 2791 and *Treaty Series*, LXI, p. 115; Greece, Cmd. 2848 and *Treaty Series*, LXVII, p. 218; Rumania, *L'Europe nouvelle*, July 30, 1927.

Annex

[Concurrent Memorandum but not a Part of the Report]

Special Memorandum of the Experts of the Principal Creditor Powers and of Germany regarding Out-Payments.

(Signed concurrently with the Report of the Committee of Experts)

1. In the annuities provided in the report, the following amounts are required to cover out-payments:

(Equivalent in millions of Reichsmarks)

2	965.1	31	1,515.4
3	942.3	32	1,525.4
4	995.4	33	1,543.2
5	1,136.4	34	1,535.0
6	1,199.0	35	1,547.4
7	1,224.9	36	1,546.8
8	1,271.8	37	1,573.7
9	1,334.0	38	1,566.9
10	1,352.5	39	1,566.1
11	1,375.0	40	1,575.9
12	1,487.6	41	1,589.2
13	1,437.9	42	1,602.9
14	1,455.1	43	1,613.1
15	1,451.5	44	1,621.5
16	1,464.7	45	1,624.9
17	1,460.9	46	1,627.6
18	1,456.5	47	1,634.2
19	1,472.3	48	1,637.9
20	1,467.1	49	1,644.6
21	1,461.6	50	1,654.7
22	1,503.9	51	1,659.6
23	1,487.9	52	1,670.5
24	1,491.0	53	1,687.6
25	1,498.1	54	1,691.8
26	1,509.4	55	1,703.3
27	1,504.5	56	1,683.5
28	1,499.1	57	925.1
29	1,506.7	58	931.4
30	1,538.6	59	897.8

It is represented that in the event of modifications of those obligations for out-payments, by which the creditors benefit, there should be some corresponding mitigation of the German annuities. The Experts of the four chief creditor countries and of Germany, therefore, recommend that Germany and all the creditor Governments having obligations for out-payments should undertake between themselves an arrangement on the following basis:

2. Any relief which any creditor power may effectively receive, in respect of its net outward payments on account of War Debts, after making due allowance for any material or financial counter-considerations, and after taking into account any remissions on account of war debt receipts, which it may itself make, shall be dealt with as follows:

As regards the first 37 years:

(*a*) Germany shall benefit to the extent of two-thirds of the net relief available by way of a reduction in her annuity obligations thereafter.

(*b*) One-third of the net relief shall be retained by the creditor concerned, in addition to the amounts otherwise receivable from Germany.

(*c*) Nevertheless, so long as any liability of Germany persists in respect of the period after the 31st March, 1966, the creditor concerned will retain annually only one-fourth part of the net relief, the balance being paid to the Bank for International Settlements.

(*d*) These payments to the Bank for International Settlements shall accumulate to assist Germany toward meeting her liabilities in respect of the period after the 31st March, 1966; any sums found after application of the funds provided in Annex 1 not to be required for this purpose (together with the accumulations thereon) shall be returned to the creditor by whom they were provided.

As regards the last 22 years:

The whole of such relief shall be applied to the reduction of Germany's liabilities.

3. We recommend that the creditor Governments should agree that, if the operation of the relief to Germany envisaged in respect of a possible reduction of net out-payments is such as to change materially the proportions in which the total annuities provided for in the present plan are divided among them, they meet to consider a revision tending toward the restoration of the present proportions;

but having regard to the following conditions set out below and any other relevant factors then existing:

(*a*) The service of any bonds mobilized by the creditor country, and the balance of its net outward payments in respect of War Debts remaining to be covered must continue to be met out of the share falling to it in the annuities thereafter to be paid by Germany.

(*b*) Due allowance shall be made for any material or financial counter-considerations accepted by the creditor country in connection with the relief accorded to it in respect of War Debts payments.

4. It was originally suggested that the amounts of the postponable annuities should be regulated by reference to the net amounts which the various creditors were themselves able to postpone in respect of inter-Allied War Debts, the general conditions therein governing postponements to be applied. For various reasons this method of calculation could not be adopted, but endeavor was made to adapt the moratorium provisions in such a way that the rights granted to Germany should not be greater than those of the creditor powers. The unconditional part of the annuity has, therefore, been fixed, while guaranties have been provided for the remainder.

FRANCQUI.	KASTL.
GUTT.	J. C. STAMP.
E. MOREAU.	C. S. ADDIS.
J. PARMENTIER.	A. PIRELLI.
Dr. HJALMAR SCHACHT.	SUVICH.

PARIS, June 7, 1929.

2. AGREEMENT BETWEEN GERMANY AND THE UNITED STATES[1]

Agreement

Made the day of , 19 , at the City of Washington, District of Columbia, between the Government of the German Reich, hereinafter called Germany, party of the first part, and the Government of the United States of America, hereinafter called the United States, party of the second part.

[1] Reprinted from *Entwürfe zu den Gesetzen*, Vierter Teil; subsequently it was published with a message of President Hoover to the Congress and covering letter by the Secretary of the Treasury in Sen. Doc. No. 95, 71st Cong., 2d sess.

Whereas, Germany is obligated under the provisions of the armistice convention signed November 11, 1918, and of the treaty signed at Berlin, August 25, 1921, to pay to the United States the awards, and interest thereon, entered and to be entered in favor of the United States Government and its nationals by the Mixed Claims Commission, United States and Germany, established in pursuance of the agreement of August 10, 1922;

Whereas, the United States is also entitled to be reimbursed for the costs of its army of occupation; and

Whereas, Germany having made and the United States having received payments in part satisfaction on account of these two obligations desire to make arrangements for the complete and final discharge of said obligations;

Now, therefore, in consideration of the premises and the mutual covenants herein contained, it is agreed as follows:

1. Amounts to be Paid —

(*a*) Germany shall pay and the United States shall accept in full satisfaction of all of Germany's obligations remaining on account of awards, including interest thereon, entered and to be entered by the Mixed Claims Commission, United States and Germany, the sum of 40,800,000 Reichsmarks for the period of September 1, 1929, to March 31, 1930, and the sum of 40,800,000 Reichsmarks per annum from April 1, 1930, to March 31, 1981. As evidence of this indebtedness, Germany shall issue to the United States at par, as of September 1, 1929, bonds of Germany, the first of which shall be in the principal amount of 40,800,000 Reichsmarks, dated September 1, 1929, and maturing March 31, 1930, and each of the others of which shall be in the principal amount of 20,400,000 Reichsmarks, dated September 1, 1929, and maturing serially on September 30, 1930, and on each succeeding March 31 and September 30 up to and including March 31, 1981. The obligations of Germany hereinabove set forth in this paragraph shall cease as soon as all of the payments contemplated by the Settlement of War Claims Act of 1928 have been completed and the bonds not then matured evidencing such obligations shall be canceled and returned to Germany.

(*b*) Germany shall pay and the United States shall accept in full reimbursement of the amounts remaining due on account of the costs of the United States army of occupation, the amounts set forth on the several dates fixed in the following schedule:

March 31	Reichsmarks	September 30	Reichsmarks
1930	25,100,000	1930	12,750,000
1931	12,750,000	1931	12,650,000
1932	12,650,000	1932	12,650,000
1933	12,650,000	1933	9,300,000
1934	9,300,000	1934	9,300,000
1935	9,300,000	1935	9,300,000
1936	9,300,000	1936	9,300,000
1937	9,300,000	1937	8,200,000
1938	8,200,000	1938	8,200,000
1939	8,200,000	1939	9,300,000
1940	9,300,000	1940	9,300,000
1941	9,300,000	1941	12,650,000
1942	12,650,000	1942	12,650,000
1943	12,650,000	1943	12,650,000
1944	12,650,000	1944	12,650,000
1945	12,650,000	1945	12,650,000
1946	12,650,000	1946	12,650,000
1947	12,650,000	1947	12,650,000
1948	12,650,000	1948	12,650,000
1949	12,650,000	1949	17,650,000
1950	17,650,000	1950	17,650,000
1951	17,650,000	1951	17,650,000
1952	17,650,000	1952	17,650,000
1953	17,650,000	1953	17,650,000
1954	17,650,000	1954	17,650,000
1955	17,650,000	1955	17,650,000
1956	17,650,000	1956	17,650,000
1957	17,650,000	1957	17,650,000
1958	17,650,000	1958	17,650,000
1959	17,650,000	1959	17,650,000
1960	17,650,000	1960	17,650,000
1961	17,650,000	1961	17,650,000
1962	17,650,000	1962	17,650,000
1963	17,650,000	1963	17,650,000
1964	17,650,000	1964	17,650,000
1965	17,650,000	1965	17,650,000
1966	17,650,000		

As evidence of this indebtedness, Germany shall issue to the United States at par, as of September 1, 1929, bonds of Germany, dated September 1, 1929, and maturing on March 31, 1930, and on each succeeding September 30 and March 31 in the amounts and on the several dates fixed in the preceding schedule.

2. *Form of Bonds.* — All bonds issued hereunder to the United States shall be payable to the Government of the United States

of America and shall be signed for Germany by the Reichsschuldenverwaltung. The bonds issued for the amounts to be paid under Paragraph numbered 1 (*a*) of this agreement shall be issued in 103 pieces with maturities and in denominations corresponding to the payments therein set forth and shall be substantially in the form set forth in "Exhibit A"[1] hereto annexed and shall bear no interest, unless payment thereof is postponed pursuant to Paragraph numbered 5 of this agreement. The bonds issued for the amounts to be paid under Paragraph numbered 1 (*b*) of this agreement shall be issued in 73 pieces with maturities and in denominations corresponding to the payments therein set forth and shall be substantially in the form set forth in "Exhibit B"[1] hereto annexed and shall bear no interest unless payment thereof is postponed pursuant to Paragraph numbered 5 of this agreement.

3. *Method of Payment.* — All bonds issued hereunder shall be payable, both principal and interest, if any, at the Federal Reserve Bank of New York for credit in the general account of the Treasurer of the United States, in funds immediately available on the date when payment is due in United States gold coin in an amount in dollars equivalent to the amount due in Reichsmarks at the average of the middle rates prevailing on the Berlin Bourse during the half-monthly period preceding the date of payment. Germany undertakes to have the Reichsbank certify to the Federal Reserve Bank of New York on the date of payment the rate of exchange at which the transfer shall be made. Germany undertakes for the purposes of this agreement that the Reichsmark shall have and shall retain its convertibility into gold or devisen as contemplated in Sec. 31 of the present Reichsbank law and that for these purposes the Reichsmark shall have and shall retain a mint parity of 1/2790 kilogram of fine gold as defined in the German coinage law of August 30, 1924.

4. *Security.* — The United States hereby agrees to accept the full faith and credit of Germany as the only security and guaranty for the fulfilment of Germany's obligations hereunder.

5. *Postponement of Payment.* — Germany, at its option, upon not less than 90 days' advance notice in writing to the United States, may postpone any payment on account of principal falling due as hereinabove provided, to any subsequent September 30 and March 31 not more than two and one-half years distant from its due date,

[1] Not reprinted.

but only on condition that in case Germany shall at any time exercise this option as to any payment of principal, the two payments falling due in the next succeeding twelve months can not be postponed to any date more than two years distant from the date when the first payment therein becomes due unless and until the payments previously postponed shall actually have been made, and the two payments falling due in the second succeeding twelve months can not be postponed to any date more than one year distant from the date when the first payment therein becomes due unless and until the payments postponed shall actually have been made, and further payments can not be postponed at all unless and until all payments of principal previously postponed shall actually have been made. All payments provided for under Paragraph numbered 1 (*a*) of this agreement so postponed shall bear interest at the rate of 5% per annum, payable semiannually, and all payments provided for under Paragraph numbered 1 (*b*) of this agreement so postponed shall bear interest at the rate of 3⅝% per annum, payable semiannually.

6. *Payments before Maturity.* — Upon not less than 90 days' advance notice in writing to the United States and the approval of the Secretary of the Treasury of the United States, Germany may, on March 31 or September 30 of any year, make advance payments on account of any bonds issued under this agreement and held by the United States. Any such advance payments shall be applied to the principal of such bonds as may be indicated by Germany at the time of payment.

7. *Exemption from Taxation.* — The principal and interest, if any, of all bonds issued hereunder shall be paid without deduction for, and shall be exempt from, any and all taxes or other public dues, present or future, imposed by or under authority of Germany or any political or local taxing authority within Germany.

8. *Notices.* — Any notice from or by Germany shall be sufficient if delivered to the American Embassy at Berlin or to the Secretary of the Treasury at the Treasury of the United States in Washington. Any notice, request or consent under the hand of the Secretary of the Treasury of the United States shall be deemed and taken as the notice, request or consent of the United States and shall be sufficient if delivered at the German Embassy at Washington or at the office of the Germany Ministry of Finance at Berlin. The United States in its discretion may waive any notice required hereunder, but any such waiver shall be in writing and shall not

extend or affect any subsequent notice or impair any right of the United States to require notice hereunder.

9. *Compliance with Legal Requirements.* — Germany and the United States, each for itself, represents and agrees that the execution and delivery of this agreement have in all respects been duly authorized and that all acts, conditions and legal formalities which should have been completed prior to the making of this agreement have been completed as required by the laws of Germany and of the United States respectively and in conformity therewith.

10. *Counterparts.* — This agreement shall be executed in two counterparts each of which shall be in English and German languages both texts having equal force and each counterpart having the force and effect of an original.

In witness whereof, Germany has caused this agreement to be executed on its behalf by its Ambassador Extraordinary and Plenipotentiary at Washington thereunto duly authorized, and the United States has likewise caused this agreement to be executed on its behalf by the Secretary of the Treasury, with the approval of the President, pursuant to the Act of Congress approved
all on the day and year first above written.

The German Reich

By.....
Ambassador Extraordinary and Plenipotentiary

The United States of America

By.....
Secretary of the Treasury

Notes Exchanged Simultaneously with Execution of the Agreement

The German Government (The Government of the United States) has the honor to set forth its understanding of par. No. 4 of the Agreement executed this day between the United States and Germany in the following sense:

(*a*) In respect of the acceptance by the United States of the full faith and credit of Germany as the only security and guaranty for the fulfillment of Germany's obligations under the agreement, Germany will be in the same position as the principal debtors of

the United States under the debt funding agreements which exist between them and the United States.

(*b*) Nothing contained therein shall be construed as requiring the United States to release any German property which it now holds other than as heretofore or hereafter authorized by the Congress of the United States.

The German Government (The Government of the United States) also desires to expressly recognize, so far as the Agreement executed this day between the United States and Germany is concerned, the prior rights of the holders of the bonds of the German External Loan as provided in the general bond securing the loan dated October 10, 1924.

The United States has received the sum of R.M.
and the sum of R.M. on account of the bonds numbered one to be delivered under pars. No. 1. (*a*) and 1. (*b*) respectively of the agreement executed this day between the United States and Germany. The receipt of these amounts will be evidenced by an indorsement by the United States on the bonds on account of which the sums were received.

The agreement executed this day between the United States and Germany is substituted for the direct arrangement providing for the realization by the United States of its 2¼% share in German payments under the Experts' Plan of 1924.

LATIN AMERICAN RELATIONS WITH THE LEAGUE OF NATIONS

By WARREN H. KELCHNER, PH.D.

WORLD PEACE FOUNDATION PAMPHLETS
40 MT. VERNON STREET, BOSTON
VOL. XII 1929 NO. 6

Copyright, August, 1930
By World Peace Foundation
Boston, Massachusetts

CONTENTS

	PAGE
I. Introduction	1
II. Entrance into the League of Nations	10
1. General Influences	10
2. Attitude in the Great War	15
A. South American Republics	16
Brazil	16
Uruguay	21
Peru	25
Bolivia	28
Ecuador	29
Argentina	29
Chile	32
Other States	33
B. Caribbean Republics	34
Cuba	34
Central America	36
Dominican Republic	40
Haiti	40
Mexico	40
3. Method of Acquiring Membership	41
Cuba	43
Peru	43
Argentina	46
Chile	49
Other States	51
III. Participation in the League	55
1. South American Republics	55
Brazil	55
Chile	74
Argentina	91
Peru	103
Uruguay	106
Colombia	109
Venezuela	112
Bolivia	113
Paraguay	115
2. Caribbean Republics	115
Cuba	115
Panama	120
Salvador	128
Costa Rica	131
Haiti	134
Dominican Republic	136
Guatemala	137
Nicaragua	137
Honduras	138
3. Summary	138

PAGE

IV. Special Phases of Cooperation 142
1. Liaison Office 142
2. Participation in Conventions 162
3. Finances 169
Table: Budget Units Payable by Latin American States 170
Table: Comparison of Budgets for 1929 . . 175
4. Cooperation on Health Questions 175
5. Pan American Union and the League of Nations . 178
6. The Dispute Between Bolivia and Paraguay . . 179

V. Relations with the International Labor Organization 194
Table: Latin American Representation in Sessions of the International Labor Conference . . . 196–197
Table: Attendance at the Conference of the International Labor Organization 205

LATIN AMERICAN RELATIONS

WITH THE

LEAGUE OF NATIONS

By Warren H. Kelchner, Ph.D.

I. INTRODUCTION

INTERNATIONAL organization has come to be an important, even vital, factor in the life of states. The creation of the League of Nations marked the farthest advance in this direction and since 1920 the League has become firmly established as an integral part of the international fabric. Although political questions were included in the jurisdiction of the League, its chief importance has come to be associated with its functional activities.

The administrative value of international institutions is now accepted by most nations as an essential concomitant of community activity. Separate international offices or bureaus had been established during the half century prior to the outbreak of the World War but these dealt with specific fields, as for example, the Universal Postal Union. International organization had developed in the Americas since 1890 on the basis of a community of interests among the nations concerned.

All of the Latin American countries entered the League of Nations with the exception of Ecuador and Mexico, and most of them have participated in its program. The League conformed to that idealism which the Latin Americans have repeatedly expressed during the century of their existence.

A great orator once said, "Man stands with paradise behind him and before him, between a great recollection and a great hope." To Latin America this was in a sense true of the League. On the one hand, they recalled the scheme of Bolívar for a family of nations, and on the other they appealed to the hope of a future which might be ruled by justice and good will. The creation of the League gave rise to new relationships, to new influences, to greater cooperation and to new problems of international coordination. It is with their effect in the Latin American republics that the present study is concerned. The relations which the nations forming the Pan American regional grouping have with the world institution are of considerable importance, for it is generally recognized that the republics of Latin America enjoy a very different international status than they did two decades ago.

With the quickening of consciousness following the Great War, there developed as a natural corollary an appreciation of the advantage of closer relations between the various republics, and a more profound realization of what is referred to as American solidarity. Just as the preoccupations of Europe during the Napoleonic war had enabled Latin America to achieve political independence, so did the Great War give the Latin American republics their first real appreciation of their capacity for self-development and regional cooperation.

The League of Nations, as an international entity, is exercising to-day a great moral and material force. It is a going institution and the most elementary logic "advises us to utilize it when its objects coincide with the purposes of America."[1] However, countries representing approximately half of the total population and territory of America have ceased to cooperate fully with the Geneva institution, while the largest, Brazil, definitely severed its connection on June 12, 1928. In the Caribbean area, Costa Rica has withdrawn, while Mexico has never ratified the Covenant. Thus, countries representing approximately half of the

[1] Brum, Baltasar, *Anteproject of Statutes for the Association of American Countries* (Montevideo, 1923).

total area and total population of Latin America are not members.[1]

Reasons for changes of attitude toward the League of Nations are given careful consideration in this study, and an attempt is made to evaluate the importance which the League plays in the relations of the several Latin American nations. The study considers in detail the reasons and the circumstances of entrance, the type and extent of the participation of the several Governments in the League organizations, and the nature and kind of cooperation which each nation has accorded the numerous activities of the League. Understanding by the reader of the structure of the League itself is assumed in the narrative. The subject is one so dependent for its elucidation on detail that a study of this kind can not adequately treat of every recorded action. However, consideration of the participation of these states at Geneva should exhibit both their own international attitude and their contribution to the League's work.

In the following pages light will be thrown upon many questions, among which are the following:

Reasons which prompted the Latin American republics to enter the League of Nations.

What do they get or expect from their membership in the Geneva institution?

Why are five nations representing 65% of the total area and 60% of the population of Latin America not Members of the League or uncertain in their relationship to it?

Is there a community of interests among those nations which are Members of the League or those which are outside?

Is there a basis which insures participation by South America as a continent?

[1] Costa Rica and Mexico in the Caribbean group have 2,013,000 sq. km. out of 2,791,000 and 15,493,000 population out of 31,690,000. In South America, Brazil and Ecuador occupy 8,818,000 out of 18,917,000 sq. km. of area and possess 39,970,000 out of 78,688,000 of population (*International Statistical Year-Book*, 1928, p. 14, 15).

In grand total, 10,841,000 sq. km. out of 21,708,000 are occupied by non-Members and 55,463,000 out of 110,378,000 of population. Argentina, which is a Member of the League at Geneva and in a state of flux on the matter at Buenos Aires, would bring these totals up to 13,638,000 for area and 66,110,000 for population.

Do Latin American republics want American problems settled at Geneva?

There can be no more positive aim in the modern world than the establishment of peace on firmer international foundations. The universal desire and hope for the dawn of a new era was doubtless intensified by the great sacrifices made by the nations during the Great War. All of these desires can not be realized in a day, but can be brought about only by a gradual process of evolution. The direction of international life along the path of justice and order has taken on a new and greater importance. The nations have turned with a renewed conviction to the efficacy of international organization for bringing about the maintenance of peace and the insurance of the common interests of all. International organization has become a vital part of the political and economic life of the world and with it has developed a keener sense of the oneness of humanity and the interdependence of nations. The establishment of the League of Nations carried international organization to a new stage. It gave opportunity for new relationships, new influences, greater cooperation, and new problems of orientation and coordination.

Few nations have experienced a more profound change during the past few years than those of Latin America. Their economic position has taken on a greater importance, their international status has been improved, and their sense of their own importance and potentialities has been greatly enhanced.

A sense of common interests, common problems and common ideals among the American nations has been an important feature of their membership in the League of Nations. This solidarity has been manifested at various League meetings by concerted action. Unofficial meetings of American delegates to the League have often taken place for the purpose of discussing the interests of America and of formulating policies best suited to serve their needs. Solidarity among the South American republics is, therefore, an influence in their relations with the Geneva organ-

ization. The Director of the International Labor Office in his report for 1927 indicated that it was disturbed at the action which the American nations were taking in regard to the codification of American international labor laws. "The representatives of South America," he said, "have always manifested in the International Labor Organization such a sense of international solidarity that it is not considered an indiscretion here to appeal to the wisdom of their statesmen to secure the necessary amendments to the original draft," of the American Institute of International Law.[1]

Latin American delegates at Geneva have been active and in accord regarding: Proposals to place the League more in harmony with their theory of "equality of states,"[2] the demand for reallocation of the budget in their favor, greater representation for America on the Council, questions of administrative organization, promotion of intellectual cooperation, and the advancement of humanitarian enterprises. There has also been a general consensus that purely American problems could be considered and dealt with in America. A common attitude has been taken toward the development of different types of liaison between America and the League.

They have interested themselves in the settlement of European questions as they came before the Assembly or Council, but have not found it necessary to bring their own disputes before those bodies. Much of their own treaty structure is negotiated under the auspices of the Pan American conferences.[3] Problems of health are largely considered through the Pan American Sanitary Bureau, which cooperates with the Health Section of the League. Labor information from America is secured through the Pan American Union as well as directly from

[1] International Labor Conference, *Tenth Session*, 1927, Vol. II, p. 9.

[2] See Francisco J. Urrutia's remarks, *infra*, p. 111.

[3] Latin American states have repeatedly referred to inter-American cooperation at League meetings. They have pointed with pride to their regional action, and their discussion of disarmament, intellectual cooperation, arbitration, codification of international law, sanitation, municipal affairs and a number of others is always linked with what has already been done in America.

the states. Problems of finance, commerce, uniform legislation, child welfare, municipal organization, consular procedure, etc., etc., are mostly considered in the International Conferences of American States or in special inter-American conferences. With such possibilities for regional agreement in being, Latin America naturally looks at the League in its broader and more general aspects.

It can be said that idealism and considerations of prestige played a relatively larger part in acceptance of the League by the American republics than was true of most other countries. It can scarcely be said that vital necessity was the chief reason for the entrance of any Latin American nation. The absence of important interests explains very largely the inconstancy of the cooperation by many Latin American nations. One could hardly imagine Belgium or Poland withdrawing from the League because its program was not accepted. Only nations which have few vital interests at stake in the League could adopt such a policy as that pursued by Argentina and Brazil. Peru and Bolivia were not seriously affected by their inactivity in the League. This would probably not be true of Austria, Yugoslavia, France, China, Persia or the South African Unions. Spain reconsidered its withdrawal and returned; not so with Brazil.

The South American Governments are, therefore, more or less free to cooperate with the League or not. Argentina has not been fully cooperating since 1920, nor Peru between 1921 and 1929. The individual interests of a nation often outweigh considerations of idealism, prestige and cooperation. Thus opportunism may dictate policy. Inconstancy may likely continue to characterize the cooperation of many Latin American republics, while consistency of participation will probably characterize the policy of certain others.

There has been no common understanding among the republics which has withheld their full cooperation. Argentina considered that the League should be universal.

Brazil withdrew because it did not obtain a permanent seat on the Council, but its claim was opposed by most of the other American republics as it would have set up a distinction between large and small nations in Latin America and would probably have prevented Argentina from ever returning. Peru and Bolivia ceased to participate in the League's activities because it did not consider the Tacna-Arica problem. Costa Rica withdrew over questions of finance. The Latin American nations feel that they can profit by the studies and investigations of the League, and they freely sign conventions made under its auspices even if they do not complete the agreement by ratification. Although they will probably not have much occasion to bring purely American problems before the League, they feel that there is a moral obligation to assist in the effort toward the organization of the world for the maintenance of peace. They consider the League as an agency for the promotion of better relations between nations and they feel that it should, therefore, be fostered. In the League they saw a hope and a possibility for better understanding. As parts of the world family, their membership is not only a question of benefits to be derived but of living up to the responsibilities incident to community life.

One service which the Latin American countries has rendered to the League is to restrict the "European tendency" and aid in maintaining its character as a world institution. The reorganization of the nonpermanent seats on the Council by the Seventh Assembly and the granting of three of them to America is an example.

Although in general the average citizen in the Latin American countries has little more than an academic interest in the League, it is reasonable to suppose that as its work becomes more universal in the technical and humanitarian fields, there will be a corresponding expansion of interest among Latin Americans as a whole in its activities. The League will increase in strength and significance among Latin Americans just so far as the

conviction spreads among them that it is an advantageous and useful instrument.

The Latin American republics are not especially interested in European problems, but are indirectly interested in the way they are decided. They will probably continue to cooperate with the League in matters of world interest and to pursue a continental policy in matters of general American concern. International organization, then, is not at stake, but rather the form which that cooperation may take.

The American republics get a theoretical protection from the League which might some time be translated into practice. Membership gives prestige by placing their delegates with the delegates of the leading states. If the necessity should arise, the League might be used as a possible counterpoise against the preponderant influence of the United States in the Western Hemisphere.

There is no inherent difficulty, however, in two American nations agreeing to submit a dispute either to a non-American or to a group of non-Americans or to a selected group such as the Council of the League of Nations. South American nations have chosen Europeans to act as arbiters on different occasions, and there could be no cause for objection if it should be done again. These nations, however, prefer to settle their problems themselves or with the aid of their neighbors, but they could offer no serious objection if disputants among them should choose to follow another course. The engagements of the Covenant bind them of their own volition, and the Bolivia-Paraguay dispute shows that there is a sensibility of the obligation.

There is no inconsistency between the Pan American organization and the world organization at Geneva. Especially do they supplement each other along lines of health, education, labor, social welfare, etc. Cooperation between the two organizations would be of benefit to each, and there is little reason why they should not functionally supplement and assist each other in technical, social, intellectual, humanitarian and scientific fields. Any aid in the

solution of such problems should be welcome, and elimination of duplication of effort should be encouraged. Special conditions in one part of the world frequently allow a solution of a problem different from that which could be applied to the world in general. Such solutions on a regional basis should be fostered. If such efforts prove successful in a particular section, the experience obtained in that limited field may prove of importance in devising a solution on a world scale.

The two organizations cooperate in some respects, and there is small reason why such cooperation should not be developed along other lines. The League and the Pan American Union have practically the same purposes but are built upon entirely different bases. The one is the product of years of evolution and is a loosely formed organization, still without effective treaty basis; the other is the result of a conscious effort to establish an international structure, founded upon enunciated principles and undertakings accepted by the Member states. The American organization is more supple and flexible but is more restricted and limited in the scope of its work than the League.

Does not a hopeful opportunity lie ahead for the establishment of a regular and efficient liaison between the League of Nations and the Pan American Union? Organized cooperation between them may well offer an avenue for a wholesome development in international organization, reinforcing the moral bond between those nations which are working toward common ideals of universal justice and fraternity.

II. ENTRANCE INTO THE LEAGUE OF NATIONS

1. General Influences

A CONSIDERATION of the entrance of the Latin American nations into the international organization at Geneva must deal with (1) the reasons for accepting membership, (2) the factors leading up to such admission, and (3) the method of acquiring membership. Certain general influences affected the attitude of the Latin Americans as a whole.

The idea of a League of Nations received the general approval of the Governments of the Latin American countries, and the prompt action of most of their legislatures in approving the original Covenant gave proof that the idea struck a responsive chord throughout South and Central America. Although the countries had not been united in regard to the world conflict they found themselves, with a single exception, in full accord with the effort "to promote international cooperation and to achieve international peace and security."

Nine of the Latin American nations — Bolivia, Brazil, Cuba, Guatemala, Haiti, Honduras, Panama, Peru and Uruguay — became original Members of the League of Nations by virtue of ratification of the treaty of Versailles. Six others — Argentina, Chile, Colombia, Paraguay, Salvador and Venezuela — became original Members by acceding to the Covenant as a separate document within two months of its coming into force. Nicaragua later ratified, and the Dominican Republic and Costa Rica were admitted to membership in 1920 and 1924, respectively. Ecuador and Mexico have never become members.

One of their most important incentives was tradition, which has always played a prominent rôle with them. Arbitration, cooperation and judicial settlement of disputes have been the three watch-words of the American republics

in their international relations. It was therefore natural that they should accept the Covenant as the most advanced step yet taken to give these principles universal application. They had advocated these principles and urged the acceptance of obligatory arbitration at the Second Hague Peace Conference. In the League they saw a step in advance. The promotion of international cooperation and the achievement of peace and security by the acceptance of obligations not to resort to war; by the prescription of open, just and honorable relations between nations; and by the maintenance of justice and a scrupulous respect for all treaty obligations, seemed to most Latin Americans the adoption for the world of the very principles which they had acclaimed since their independence.[1] Their traditional policy was to be accepted by the nations of the world in the League Covenant.

Another factor which influenced the American republics was that of continental solidarity. The World War had altered their position in the family of nations, and their increased realization of interdependence led to renewed faith in their traditional scheme for international cooperation. Although they had not acted in unison in regard to the war, yet there developed during the conflict an increased sense of American continentalism, which became a dynamic force in the international relations of the Western Hemisphere. Practically all of the 13 republics which took action favorable to the United States and the allies referred to "traditional friendship", "American solidarity" or "continental solidarity." The spontaneity with which most of these American Governments joined the ranks after the United States entered the conflict is explained by this influence. Its degree varied in the different countries, yet it can be said that the idea of continentalism was important in at least ten of the Latin American Republics.

Although continental solidarity had not brought concerted action in regard to the war, it was a decided factor

[1] Alvarez, Alejandro, *Le Droit international américain* (Paris, 1910); Urrutia, Francisco, *La Evolucion del principio del arbitraje en América* (Madrid, 1920); Moore, John Bassett, *The Principles of American Diplomacy* (New York, 1918).

in bringing about an almost unanimous acceptance of the program for world peace. The relative importance of the ideas of united action, of interdependence, and of cooperation varied, of course, in the different countries, being stronger in Brazil, Bolivia, Peru, Uruguay and most of the Central American Republics. This will be considered in detail a little later.

Another factor which influenced the Latin American nations to accept the League was that intangible thing which we call prestige. Although difficult to define and susceptible of varying interpretations, it is an important consideration in the affairs of states. The war brought a new sense of their potentialities to Latin Americans. The war had not only led them to realize their own importance in the world economic scheme but it also impressed upon Europeans the economic and other possibilities of the countries of that hemisphere. The vital importance of Argentine wheat, of Brazilian manganese, of Chilean nitrates, was forcefully brought home to a number of the countries of Europe during the great struggle. The American republics were no longer on the margin of international affairs. They emerged from the war period with their authority and prestige greatly enhanced.

The opportunity was given them to participate on the basis of equality with the most powerful nations of the world in the new experiment of international organization. The delegates of Paraguay and Nicaragua could be represented in the Assembly of the League on a basis of equality with those of the British Empire. This was a situation which had never before been possible outside the Western Hemisphere and the Latin American was not one to overlook the opportunity. The delegates of small states have proved on many occasions to be extremely able negotiators in connection with the work of the League.[1]

It was obvious that representation of one of those countries on the Council of the League, or the election of a

[1] Such men as J. Gustavo Guerrero of Salvador and Francisco José Urrutia of Colombia, Enrique Villegas of Chile, Alberto Guani of Uruguay, and Aristides de Aguero y Bethancourt of Cuba may be mentioned.

national as president of the Assembly, would attract the attention of the world. This factor of prestige undoubtedly played a part in the determination of their policies toward the League and has unquestionably influenced participation during the years which have elapsed since its inauguration. What chance would a delegate from Uruguay or one from Salvador have had to sit in the executive organ of any world institution under the international system outside the American hemisphere prior to 1920? Where had the smaller nations ever been given a forum in which they might voice their grievances? When had the smaller nations ever been given a real voice and responsibility in the problems affecting the peace of the world? A new hope was given to these countries in the League of Nations and it was but natural that they should align themselves in the advancement of this idea.

Another factor was the sympathy of the intelligentsia toward Europe, and especially toward France. The culture, the art and the literature of Latin America are closely allied with those of France. French is spoken by all educated Latin Americans. French textbooks are used extensively in the college, while students who go to Europe usually make France their second homeland. The admiration and affection for that country are almost traditional in practically all of the Latin American Republics. The French way of doing things, the fondness for graceful and rhetorical expression, the gaiety of the French spirit and the artistic temperament, all appeal to the sensitive Latin Americans.

A further factor which influenced several Republics of Latin America to enter the League was the possible protection which it might afford. The guaranty of territorial integrity and the existing political independence against external aggression as promised in the League Covenant were acclaimed by Latin America. There is no doubt that those who feared the United States saw in the League a possible protection against encroachments by the North American republic. The League of Nations afforded to the Latin Americans a hope of a possible counterpoise

against the predominant influence of the United States. Although most of the republics are opposed to the consideration of purely American affairs by the League of Nations, yet it gives them a possible weapon which might be used in case of emergency. In other words, the League serves as a card which a Latin American republic might play in case of necessity. They heartily approved the right which each Member has under Art. 11 of the Covenant to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace. This was soon translated into practice when they witnessed a delegate from a small state, Bellegarde of Haiti, bring a member of the British Empire (the Union of South Africa) to account regarding its treatment of the natives in South West Africa. Would this not serve as the basis of a hope among certain American Republics in regard to their relationships with any major power?

Another factor which influenced the Latin American republics to accept the League of Nations was idealism. The addresses of President Wilson strongly appealed to the Latin Americans and they responded to their conception of a world organized upon the basis of peace, justice and self-determination. Their fervent desire to collaborate in the organization of world peace was undoubtedly a strong moral influence in prompting their cooperation with the League of Nations, for they saw in it a guaranty for the future of international relations and the promotion of peace. It was with pride and satisfaction that they accepted the invitation to participate in such an enterprise. They were prepared to accept their new international obligations and responsibilities and acquiesce in the new international order and they have since been partisans of all efforts to give the Geneva institution greater scope.

They saw in it a step toward the establishment of a rule of law among nations. The conception of an international law binding upon the governments of the world was an idea which naturally appealed to the idealism of the

Latin American. That aspiration for a world more enlightened, — a world in which the cooperation of men and nations rather than the rivalry and the aggrandizement of one at the expense of another should be the guiding aim, — was to them worthy of support. They felt that a League to establish the normality of peaceful relations in international life was certainly an undertaking worthy of the approval of all. It would serve to create an atmosphere of confidence and fraternity which would tend to prevent wars by modifying the state of mind of peoples and governments. They considered that the attention of men of good will should be directed to the promotion of that international atmosphere in which reciprocal confidence should prevail in the development of activities for the common welfare. The League was looked upon as a tranquilizing influence which might create a spirit of tolerance, confidence and respect, looking to the future well-being of humanity. They accepted the League in a spirit of loyal cooperation as an effort to avoid the appeal to arms by the nations of the world. They considered the League as an institution capable of intervening in the conduct of nations by focusing public opinion and in this way bringing a greater moral force to bear upon a particular situation than was possible under the old system. Thus the enthusiasm manifested by the Latin American countries toward the League of Nations was due in part to the fact that its principles were entirely in accord with the idealistic traditions of Latin America.

2. Attitude in the Great War

The entrance of the Latin American countries into the League of Nations was also conditional upon certain special factors. The most important of these were connected with their respective policies in regard to the Great War. The attitude of the Latin American Governments toward that conflict is important because of: (1) the resulting development of the sentiment for world

interdependence and cooperation, and (2) the Covenant of the League of Nations, as an outgrowth of the peace settlement, was made an integral part of the peace treaty.

During the early days of the war the Latin American Governments remained neutral and concerned themselves with safeguarding their position. Some made efforts to secure the adoption of a continental policy of neutrality, but these attempts failed to lead to any practical results. When the United States severed diplomatic relations with Germany on February 3, 1917, a new situation arose and many of the Latin American Governments, sensible of a continental solidarity, followed its lead. Thirteen of the 20 republics officially demonstrated their solidarity either by declaring war or by severing diplomatic relations with Germany.[1] Brazil, the largest Latin American nation, Cuba, Costa Rica, Guatemala, Haiti, Honduras, Nicaragua and Panama entered the war on the side of the allies; Bolivia, Ecuador, Dominican Republic, Peru and Uruguay broke off diplomatic relations with Germany. Argentina, Chile, Colombia, Mexico, Paraguay, Salvador and Venezuela remained neutral throughout.

The attitude of the various Latin American Governments in regard to the Great War, although possessing a surprising degree of similarity, was by no means uniform. It differed both in degree and importance in the different states.

A. South American Republics

Brazil

Of the South American nations, Brazil played the most important part in the war. Animated by a spirit of continental solidarity, with its neutral rights violated and its interests jeopardized, Brazil joined the *United States and the Allies* and became the foremost of the belligerent Latin American nations.

[1] An excellent treatment of the policies of the Latin American countries is found in *Latin America and the War* by Percy Alvin Martin (Baltimore, 1925). The decrees of neutrality and severances of relations are printed in Naval War College, *International Law Topics*, 1916, and *International Law Documents*, 1917 and 1918.

It was rather difficult to envisage at the beginning of the Great War what might be the attitude of Brazil. The large number of German colonists in Southern Brazil, estimated at anywhere from 350,000 to 500,000, might have been expected to exert considerable pro-German influence. The Government and people, however, soon gave clear indications that their sympathies were overwhelmingly on the side of the Allies. Within a week after the outbreak of the War, the Brazilian Chamber of Deputies passed a motion recording its opposition to the violation of treaties and to acts violating the established principles of international law. Less than a year later (March, 1915), the Brazilian League for the Allies was founded under the presidency of the eminent statesman, Ruy Barbosa. Its activities included educational conferences, petitions of protest against Germany's war methods, and the raising of funds for the Brazilian Red Cross.

It was at a meeting of this organization to raise funds for the establishment of a Brazilian hospital in Paris that President Ruy Barbosa expressed regret that the United States had not seized the opportunity to assure itself first place among the nations by grouping about itself all the peoples of the American continent as a protest against the invasion of Belgium and by entering the struggle to defend the validity of international engagements.[1] Brazil followed with keen interest the relations between the United States and the belligerents.

The economic crisis which followed the opening of hostilities had a profound effect upon its attitude. Brazil was hard hit by interference with the sale of its agricultural exports. The British blockade cut off its market in Central Europe (Germany being in 1913 second in imports and exports of Brazil), while the submarine warfare carried on by the Central Powers threatened its remaining European markets. Thus Brazil found its trade and commerce threatened with paralysis. Its merchant marine was endangered. Its finances were thrown into disorder and

[1] Gaston, Gaillard, *Amérique latine et Europe occidentale* (Paris, 1918), p. 44.

the treasury's chief source of revenue was materially cut off, since a good percentage of public revenues was secured from customs duties. The development of Brazil into an important exporter of staple foodstuffs demonstrated that the country could be self-sufficient and could even enter the world market. Confidence and self-reliance were thus engendered in the country's economic position.

Following the outbreak of the war, the policies of the United States and Brazil toward the belligerents paralleled each other to a marked degree. An extraordinary degree of patience and forbearance characterized Brazilian action under trying conditions. The Government insisted upon and maintained respect for neutral rights. On May 1, 1915, the Brazilian steamship *Rio Branco* was seized and sunk by a German submarine off the coast of England. This aroused deep indignation and called forth a strong protest from the Brazilian Foreign Office. An apology with promise of payment by Germany eased the situation.

Portugal, Brazil's mother country, entered the war in 1916 and this aided in crystallizing sentiment in favor of the Allies.

In July, 1916, Ruy Barbosa went to Buenos Aires as special ambassador to the centenary of Argentina's independence. In the course of his speech he outlined his country's position in the European conflagration in the following uncompromising manner: "No nation can be a law unto itself. None can be an indifferent spectator in this world tragedy. Neutrality entails obligations. Between those who destroy law and those who uphold it, neutrality is not permissible. Neutrality does not mean attempting the impossible: it means impartiality, and there can be no impartiality between right and justice on the one hand and crime on the other. To demand the observance of those precepts on which the conscience of nations reposes, to demand respect for treaties, is not to break neutrality but to respect it." [1] This was approved by the Brazilian Congress on July 17 when both branches

[1] *Jornal do' Commercio*, July 18, 1916.

voted by a large majority that the speech be published and made a part of their proceedings. Senhor Pedro Moacyr in presenting the motion in the lower house said: "It is absolutely necessary that we align ourselves with the forces of civilization, menaced with destruction." This declaration of sympathy called forth expressions of deep gratitude from France and Belgium.

On the other hand, the work of German agents in Brazil, the failure of Germany to settle for large quantities of coffee stored in Hamburg, and finally, the declaration of unrestricted submarine warfare brought relations to the breaking point. In its reply to the German declaration the Brazilian Government felt that, "it is its duty to protest against this blockade, as in fact it does protest, and, therefore, it leaves to the Imperial German Government the responsibility for all events which may happen to Brazilian citizens, merchandise or ships as a result of the abandonment of the principles recognized by international law or by conventions to which Brazil and Germany are parties." [1]

On April 5, 1917, the Brazilian steamer *Parana* was sunk off the coast of France by a German submarine. The next day the United States declared a state of war with Germany, and on April 11, the Brazilian Government handed Herr von Pauli, the German minister, his passports.[2]

A decree of technical neutrality was issued April 25, 1917, in the war between the United States and Germany.[3] On May 22, President Braz P. Gomes urged Congress to revoke the decree. In his speech he pointed out that "the Brazilian nation, through its legislative organ, can without warlike intentions, but with determination, adopt the attitude that one of the belligerents forms an integral part of the American continent, and that to this belligerent we are bound by a traditional friendship and by a similarity of political opinion in the defense of the vital interests of

[1] Note from Brazilian Minister to German Secretary of State for Foreign Affairs, February 9, 1917, *Brazilian Green Book*, p. 19, authorized English version by Andrew Boyle (London, 1918).

[2] *Ibid.*, p. 30.

[3] *Ibid.*, p. 39.

America and the principles accepted by international law."[1] The decree of neutrality was annulled June 1, 1917. In a circular note of June 2, to all capitals to which the republic was accredited, the policy of continental solidarity was announced, thus giving expression to that cordial relationship which has existed with the United States since the founding of the Republic. The note was a display of friendship toward the great northern Republic which "has been the axis of Brazil's continental policies since imperial times,"[2] and said:[3]

> The republic has thus recognized that one of the belligerents is an integral part of the American continent, and that we are bound to this belligerent by a traditional friendship and by a similarity of political opinion in the defense of the vital interests of America and the principles accepted by international law.
>
> Brazil never had, and still has not, warlike ambitions, and if she always abstained from any partiality in the European conflict, she could not remain indifferent to it, when the United States were drawn into the struggle without any interest therein but in the name alone of respect for international law, and when Germany extended indiscriminately to ourselves and other neutrals the most violent acts of war.
>
> If hitherto the relative lack of reciprocity on the part of the American republics has withdrawn from the Monroe doctrine its true character, permitting a scarcely well-founded interpretation of the prerogatives of their sovereignty, the present events, by placing Brazil, even now, at the side of the United States, in the critical moment of the world's history, continue to give our foreign policy a practical form of continental solidarity — a policy indeed which was that of the old régime on every occasion on which any of the other friendly sister nations of the American continent were in jeopardy.

The final break came on October 26, 1917, when a resolution recognizing a state of war with Germany was passed

[1] Note from Brazilian Minister to German Secretary of State for Foreign Affairs, February 9, 1917, *Brazilian Green Book*, p. 40, authorized English version by Andrew Boyle (London, 1918).

[2] *Monroe Doctrine Centenary* (Rio de Janeiro, 1924).

[3] *Brazilian Green Book*, p. 48–49.

unanimously by the Senate and with only one dissenting vote in the Lower House. Thus Brazil took the lead among the Latin American countries in declaring war on Germany, following the example of the United States; the act was of importance in demonstrating a solidarity between the two largest countries in America. In this it broke away from the A B C combination and placed itself in a position as political leader in South America, affiliated with the United States of North America.

Uruguay

From the very outbreak of the war, the sympathies of Uruguay were for the Allied cause. The Uruguayans are a homogeneous people, almost entirely of European origin. Its economic life has been closely associated with the British interests while cultural and intellectual life has been closely affiliated with that of France. The people sympathized with the cause of France and Italy, while the heroism of Belgium evoked the greatest admiration. Uruguay, however, did not become involved in any diplomatic controversies with the belligerents. During this difficult period, Uruguay was fortunate in having as its Minister of Foreign Affairs, Dr. Baltasar Brum, one of the most eminent and capable statesmen of South America.

The Government issued its decrees of neutrality August 4, 1914.[1] A few days later rules of neutrality were issued which would be enforced in the ports and territorial waters of the country.[2] These rules were modified by later decrees.

The reply of Dr. Brum, minister of foreign affairs, to the notification by Germany of unrestricted submarine warfare is a classic of ability and tact. "The Uruguayan Government," he said, "feels it incumbent to point out to the German Government that it can not admit for its nationals, for its commerce and its ships, the restrictions which are

[1] Republica Oriental del Uruguay, Ministerio de Relaciones Exteriores, *Disposiciones sobre Neutralidad (1914–1915)* (Montevideo, 1915).

[2] *Ibid.*, p. 7–11.

imposed upon it by the indefinite zone of blockade and the methods of the submarine campaign.

"It still ventures to hope that the Imperial Government will confine its action within the limits of law, respecting those principles of humanity and justice so frequently sustained by its leading thinkers, principles which constitute the basis of the friendly relations which our two countries have cultivated without alteration; none the less, in spite of this hope, it reserves to itself the right — which the great German internationalist characterized as 'indisputable' — to employ the proper measures against procedures contrary to international usages, as well as against the arbitrary excesses with which it is threatened."[1]

Uruguay on February 6, in its reply to the announcement by the United States of the severance of diplomatic relations with Germany said "the Uruguayan Government, which on a previous occasion gave its adhesion to the efforts made by the United States in defense of the rights and interests of neutrals, recognizes the justice and nobility of the sentiments which in this emergency have guided President Wilson."[2] It maintained its neutrality, however, but extended moral sympathy to the United States,[3] the Chamber of Deputies passing on April 12, 1917, the following motion by a large majority: "The Chamber of Deputies of Uruguay sends a fraternal greeting to the representatives of the American people who, as paladins of right and justice, . . . are embarking upon the terrible struggle which casts its shadow over the whole world."[4]

The doctrine of American solidarity was championed by many prominent Uruguayans, among whom was the distinguished writer and scholar, Dr. Juan Zorilla de San Martin.[5] The adherence of Brazil, June 1, 1917, to the doctrine of continentalism led the Uruguayan foreign office

[1] *Memoria de Relaciones Exteriores* (Montevideo, 1916–1918), p. 414–419.

[2] *Ibid.*, p. 421.

[3] *Ibid.*, p. 432.

[4] Republica Oriental del Uruguay, *Diario de las Sesiones de la Camara de Representates*, Vol. 253, p. 450 (Montevideo, 1917).

[5] *El Siglo*, Montevideo, June 16, 1917.

to send the remarkable note of June 13, 1917, in which Dr. Brum urged that a congress of the American states formulate a united moral front against Germany. He said:[1]

The Uruguayan Government, after examining Your Excellency's note, takes pleasure in stating that it sympathizes with the ideals to which the said communication refers, and reiterates once more its urgent desire that the policy of America through a congress of all its peoples, should give expression once and for all in judicial formulas or practical actions to the fertile aspirations of continental solidarity.

United as are the nations of the New World by the eternal bonds of democracy and by the same notions of justice and liberty, the logic of principles and interests, the better to insure the efficacy of the former and the free development of the latter, should of necessity make, in view of the events which are affecting the world to-day, for a close unity of action, in such a way that every act perpetrated against one of the countries of America with violation of the principles universally recognized by international law, should constitute an aggression to all and call for a united resistance from them.

The famous decree of June 18, 1917, proclaiming the doctrine of American solidarity received hearty approval from many of the American republics, and was as follows:[2]

Considering that in various communications the Government of Uruguay has proclaimed the principle of American solidarity as the criterion of its international policy, understanding that the grievance against the rights of one country of the continent should be considered as a grievance by all and provoke them to uniform and common reaction;

Second, that in the hope of seeing an agreement in this respect realized between the nations of America which may make the practical and efficient application of such ideals possible, the Government has adopted a watchful attitude with reference to its action, although it has signified in each case its sympathy with

[1] *Brazilian Green Book*, p. 56.

[2] Naval War College, *International Law Documents*, 1917, p. 249; Baltazar Brum, *The Peace of America*, p. 25–26 (Montevideo, Imp. nacional, 1923); in Spanish, *Memoria de Relaciones Exteriores*, 1916–1918, p. 439–440.

the continental nations which have seen themselves obliged to abandon their neutrality;

Considering that, as long as such an agreement is not made, Uruguay, without acting contrary to its sentiments and convictions, could not treat the American nations which in defense of their own rights find themselves compromised in an intercontinental war, as belligerents; and

Considering that this criterion is shared by the Honorable Senate,

The President of the Republic

At a general cabinet meeting

Decrees:

First. To order that no American country which in defense of its own rights should find itself in a state of war with nations of other continents will be treated as belligerents.

Second. That it is ordered that existing decrees which may be in opposition to this resolution are to remain without fulfillment.

Third. Let it be communicated, published, etc.

Although Uruguay revoked its neutrality in favor of the United States, it did not break off diplomatic relations with Germany until three months later. This was probably due to hope for a concerted action regarding a rupture of diplomatic relations. President Viera pointed out before the Uruguayan Congress on February 15, 1918, that, "if the principle of continental solidarity were accepted by the various American states and efforts were made to put it into effect, Uruguay would proceed to a rupture of relations and even to war."[1]

On July 12, 1917, an opportunity was afforded to testify Uruguay's friendship for the United States when the American fleet, under Rear-Admiral Caperton, arrived at Montevideo. Although still neutral, the rules regarding the length of sojourn of belligerent vessles were waived.

Uruguay could not safely break with the central powers as long as neither of its two neighbors had entered definitely into the conflict. The strong German colony in Rio Grande do Sul just north of Uruguay was a source of uneasiness. Uncertainty regarding the attitude of Argentina was a

[1] *Memoria de Relaciones Exteriores, 1916–1918*, p. xxii.

cause of anxiety, and President Viera inquired of President Irigoyen as to whether Uruguay could count on the support of Argentina in case of an attack by the German colonies.[1]

In a message to the Legislative Assembly President Viera requested the severance of diplomatic and commercial relations with Germany. He said in part: ". . . The republic adopts a measure of such transcendental import without having any particular grievance to vindicate, without any direct offense of which she may complain. Her action, superior and calm, is based solely on the principle of high solidarity with the defenders of right and justice, who are at the same time the stalwart defenders of the sovereignty of the small nations, the self-sacrificing champions of world democracy."[2] On October 7, 1917, diplomatic and commercial relations were severed between the Republic of Uruguay and the German Empire.[3] German ships in the harbor of Montevideo were taken over and were leased to the Emergency Fleet Corporation of the United States.[4]

Uruguay, then, translated the nebulous doctrine of continental solidarity into a national policy. As a protest against German violation of international law it abandoned neutrality without national interests being directly jeopardized. Its statesmen recognized obligations of American cooperation and proceeded to direct their efforts toward the promotion and development of a united continent in behalf of the principle of American solidarity.

Peru

Continental solidarity continued to be one of the most important principles of the foreign policy of Peru in regard to the European War. Peru had been the chief promoter during the 19th century of the early inter-American con-

[1] *Memoria de Relaciones Exteriores, 1916–1918*, p. xxix.

[2] *Ibid.*, p. 526–527.

[3] *Ibid.*, p. 529–530.

[4] *Diario de Sesiones de la H. Camara de Senadores*, Vol. 112, p. 44 *ff*.

ferences and has steadfastly championed the cause of a united America. The relations between Peru and the United States have been characterized by friendship and good will and it was therefore natural that Peru should be found on the side of the United States in the world struggle.

Peru proposed in August, 1914, that the American republics define the rights of neutrals and adopt a common policy toward the war. Similar proposals from other sources were considered by the Governing Board of the Pan American Union. A commission was appointed to study the problem but to no result.

In its reply of February 9, 1917, to Germany's announcement of unrestricted submarine warfare, Peru denied Germany's claim "because the Peruvian Government considers it opposed to international law and the legal rights of neutrals. The recent odious case of the *Lorton* which resulted in a claim by my Government, proves the error and injustice of the submarine campaign, now generalized in an unacceptable form by the closure of enormous zones of free seas, with serious danger to the lives and interests of neutral countries."[1]

The Peruvian reply of June 28, 1917, to the Uruguayan decree of June 18 declared in favor of the principle of American solidarity and accepted it as the key-note of its international policy.[2] President Prado in his message to the Peruvian Congress July 28, 1917, announced the adherence of Peru to the principles of justice and right set forth in President Wilson's message to Congress of April 2. He approved the attitude which the Governments of Brazil, Cuba, Bolivia, Panama and Uruguay had taken in regard to the war.[3] The Senate declared on September 8, 1917, that "the international policy of Peru should derive its inspiration from the principle of solidarity of

[1] de Lavalle, Juan Bautista, *El Peru y la Gran Guerra* (Lima, 1919), p. 14.

[2] Republica Oriental del Uruguay, *Memoria del Ministerio de Relaciones Exteriores*, 1916–1918, p. 466–467.

[3] Lavalle, *op. cit.*, p. 15–18; Naval War College, *International Law Documents*, 1917, p. 197.

the peoples of the continent with the United States in harmony with the ideals of international justice proclaimed by President Wilson."[1]

The failure of Germany to grant satisfactory reparation for the sinking of the *Lorton* on February 5, 1917, together with the idea of continental solidarity, led the Peruvian Congress to pass a resolution on October 5, 1917, by a vote of 105 to 6 to sever diplomatic relations with Germany. Although many were in favor of a declaration of war, the Government never took that step.[2]

A note sent by the minister of foreign affairs to the United States, explaining the causes for the severance of diplomatic relations, said in part:[3] ". . . When the conflagration spread to the American continent, notwithstanding the efforts exerted for nearly three years by the United States to keep that great people out of the conflict, Peru was confronted by new duties springing from its passionate desire for the continental solidarity that has ever been the goal of its foreign policy, and by the necessity of defending its rights from the new form of maritime warfare set up by Germany." The note indicated this as the reason for announcing adherence to the principles proclaimed by President Wilson instead of immediately breaking off diplomatic relations. "It was the Peruvian Government's wish that the policy of the whole continent be a concerted ratification of the attitude of the Washington Government which took up the defense of neutral interests and insisted on the observation of international law. But the course of events did not result in joint action; each country shaped its course in defense of its own invaded rights as it was individually prompted in its adherence to the principles declared by the United States."

[1] Lavalle, *op. cit.*, p. 19.

[2] de Lavalle, Juan Bautista, "The Severance of Diplomatic Relations between Peru and Germany", *American Journal of International Law*, XII, p. 610.

[3] Naval War College, *International Law Documents*, 1917, p. 198; *Boletin del Ministerio de Relaciones Exteriores*, Ano XVI, No. LXI, p. 54.

Bolivia

Being land-locked and possessing no merchant marine, Bolivia did not have its interests endangered by the German submarine campaign. On the other hand, the Bolivian foreign policy revolved about Pan Americanism as one of its poles and this proved to be of sufficient strength to make Bolivia an ardent supporter of united American action in regard to the European conflict.

The Bolivian minister of foreign affairs on February 5, 1917, stated that "the Government of Bolivia considers entirely proper the noble and lofty attitude assumed by the Government of the United States, which is in accord with the rights of neutral countries to safeguard their own interests and those of civilization and humanity. The Government of Bolivia, therefore, frankly indorses the stand taken by the United States."[1]

Bolivia inaugurated a movement to bring about a collective protest against the German submarine campaign. On February 7, 1917, the minister of foreign affairs sent a note to the American Republics in which he said that he thought it was "indispensable to formulate a collective protest on the part of all, or at least of some, of the South American states against the plans of Germany, as communicated officially to the Government at Washington."[2] These efforts did not lead to practical results.

On April 13, 1917, a week after the declaration of war by the United States, the Bolivian Government handed the German minister his passports.[3] Bolivia remained in this relation for the remainder of the conflict and was represented at the Peace Conference.

[1] Republica de Bolivia, *Memoria que presenta el Ministro de Relaciones Exteriores y Culto, Dr. Placito Sanchez al Congreso Ordinario de 1917*, p. 30–31.

[2] Republica del Ecuador, *Informe que el Ministro de Relaciones Exteriores presenta á la nacion*, 1917, p. 251.

[3] *Ibid.*, p. 162–164.

Ecuador

Ecuador, like Bolivia, possessed no merchant marine. Like the other nations on the Pacific, it was removed from the area of hostilities and hence its national interests were not directly imperiled by the war operations.

Ecuador was a partisan of American solidarity and proposed the summoning of a congress of neutrals at Montevideo to consider an "agreement on means for the guaranty of the rights of neutrality and a possible moderation of the rigors of the struggle."[1] No practical results came from this proposal, and on December 7, 1917, Ecuador formally broke diplomatic relations with Germany.[2] In the memorandum to the diplomatic corps the Minister of Foreign Affairs said that "the rupture of relations with Germany signifies that Ecuador, whose doctrine has always been that of American solidarity, is united in heart and thought with her sister Republics of the continent."[3]

Argentina

The remaining South American Governments — Argentina, Chile, Colombia, Paraguay and Venezuela — maintained neutrality throughout the war. It can safely be said that the policy of no South American republic toward the League of Nations was more influenced by its Great War policy than that of Argentina. The attitude of Argentina toward the war was naturally regarded with great interest not only because it was the largest and most influential Spanish speaking country of America but also because of its tremendous economic strength, which was of vital importance to the belligerents. The Government listed itself as a neutral at the beginning of the war, a position maintained throughout the conflict.

[1] Republica del Ecuador, *Informe que el Ministro de Relaciones Exteriores presenta á la nacion*, 1915, p. 249–250.

[2] *Ibid.*, 1918, p. 228–230.

[3] *Ibid.*, p. 230–232.

There were, however, repeated and unquestionable evidences of popular sympathy for the Allies. The two most influential newspapers were strongly pro-Ally. The very large Italian population naturally championed the cause of the motherland. The strong British interests, the result of a century of commercial and financial penetration, were imbedded in the entire economic structure of the country and were, of course, pro-Ally. The intelligentsia was largely linked to France. The war proved to be extremely profitable; Argentine products, — meat, wool, hides and grain, — found a ready market in Europe at high prices.

The entrance of the United States did not have the same effect in Argentina as it had in Brazil. The traditional policy of the country toward the United States had not been as cordial as that of Brazil. The declaration of war by the United States, however, called forth a statement from the Argentine Government to the effect that it recognized "the justice of the decision, founded as it is upon the violation of the principles of neutrality established by the rules of international law, which have been considered definite accomplishments of civilization."[1]

When the *Monte Protegido* was sunk by a German submarine the latter part of the same month, the Government demanded reparation, which the German Government promised. This was followed by the sinking of two more Argentine ships, *Oriana*, June 6, and *Toro*, June 22. Germany promised to pay for the losses and on August 30, 1917, Argentina informed Germany that it considered the affair closed. Upon the publication[2] on September 8, 1917, of the intercepted Luxburg cablegrams by the United States, anti-German riots and attacks upon German houses took place, while the Senate by a vote of 23 to 1 and the Chamber of Deputies by a vote of 53 to 18 favored a severance of diplomatic relations. Luxburg, the German chargé d'af-

[1] Note of April 11, 1917, by Ambassador Naón, to the State Department (Naval War College, *International Law Documents*, 1917, p. 37).

[2] United States, Committee on Public Information, *Official Bulletin*, I, No. 102, p. 1.

faires, was given his passports September 12; but with the disavowal by Berlin of Luxburg's actions, President Irigoyen considered the incident closed.

Luis Maria Drago, former minister of foreign affairs and author of the Drago doctrine, in an article in *La Razón*, April 10, 1917, strongly urged a break. He said:

> Such action was justified by the German notification that it prohibited all ships from crossing a war zone arbitrarily established on a free sea against all conception of international law. The situation is aggravated to-day. The war between Germany and America is a struggle of democracy versus absolutism and no American nation can remain neutral without denying its past and compromising its future. How can Argentina break the bonds of solidarity with its Latin brothers and abandon its traditional policy to remain in an isolation which nothing would justify. We should constitute the material and moral union of this continent for the defense of law and democratic principles in international relations.[1]

It was likewise true that Ambassador Naón and the President differed radically regarding the attitude which Argentina should take. The ambassador favored a break with Germany to uphold the rights of Argentina and supported a policy of Pan Americanism and continental solidarity. He visioned a peace conference at the close of the war which would probably regulate the economic cooperation of the world for the future and pointed out that, if Argentina should remain neutral, it would not be able to participate in such an important conference.

The President did not consider an attack upon one member of the continental bloc as an attack upon all. Before the Chamber of Deputies on September 22, 1917, he urged that each country should decide the issue according to the circumstances in each case. He felt that he, being away from the direct influences of the strife, was better able to view the developments with impartiality than diplomatic representatives in the belligerent countries. Above all, the President was too independently minded to follow

[1] Translated from *La Razón*, Buenos Aires, April 10, 1917.

in the wake of the United States.[1] Irigoyen as a man of definite opinions and of determination, felt that only the national interests of the country should decide the action of his Government. To him war meant active cooperation and not simply a declaration of sympathy. Argentina was a great nation, — the leading Spanish nation in America — and its action should be worthy of that position. The idea of playing an important rôle with Spain at the Peace Conference was fostered. The absorption of energies and resources by entrance into the war would have delayed the carrying out of the social and economic reforms to which the Radical Party had been pledged.

President Irigoyen attempted on two different occasions to convene a conference of neutral Latin American nations. Both efforts failed, Mexico being the only state which received the idea with any degree of enthusiasm. On August 1, the German minister wrote: "The President has at last made up his mind to conclude a secret agreement with Chile and Bolivia regarding a mutual rapprochement for protection *vis-à-vis* North America before the conference idea is taken up again."[2]

Whatever difference of opinion may exist, in the light of facts since revealed, regarding the judgment or the relative weight which the President gave to the various factors, his sincerity in doing what he considered to be the best for his country can scarcely be questioned. He obeyed what he believed to be the dictates of patriotism and sound domestic policy.

Chile

Neutrality during the World War seemed to be the logical policy for Chile. The country was far removed from the center of hostility and its merchant marine was largely engaged in quarters other than the war zone.

[1] On October 1, he was reported as having stated that "Argentina can not be dragged into the war by the United States and the nation must take the place it deserves on the American continent." (*Christian Science Monitor*, October 1, 1917.)

[2] *Latin America and the War*, Percy Alvin Martin, p. 255 (World Peace Foundation, II, No. 4, August, 1919).

Hence its neutral rights were not seriously jeopardized either by the blockade or by the unrestricted submarine campaign. On the other hand, the great demand for Chilean nitrates ushered in a period of unprecedented prosperity. Martin summarizes the situation thus: "To many Chileans neutrality seemed both logical and profitable."[1]

After the United States and Brazil entered the war and after the appeal for continental solidarity by Uruguay, Chile continued to adhere to its policy of neutrality, and preferred this policy to that of American solidarity. It can be said that German propaganda and the strong and influential German colony played an important part in formulating the Chilean policy regarding the war.

Other States

Colombia adopted the policy of neutrality August 13, 1914.[2] The Colombian Government expressed itself in sympathy with the policy of solidarity in its reply of February 28, 1917, to the proposals of Bolivia, Ecuador and Mexico. It suggested that the Ecuadorian, Bolivian and Mexican legations at Washington be authorized to discuss the matter with the representatives of other neutral states and if it should seem feasible, plans should be made for a conference in Uruguay.[3]

Later Colombia abandoned the idea of continental unity. She declined the invitation of Argentina both in respect to a congress in favor of peace and as to a conference of neutrals.[4]

The resentment entertained in Colombia against the United States undoubtedly influenced the attitude of the Government. The treaty of April 6, 1914, had not yet been approved by the Senate of the United States and the bitterness which had been engendered by the severance

[1] *Latin America and the War*, Percy Alvin Martin, p. 256 (World Peace Foundation, II, No. 4, August, 1919).

[2] Re ubl'ca de Colombia. *Informe del Ministerio de Relaciones Exteriores al Congreso, de 1915*, p. 35; Naval War College, *International Law Topics*, 1916, p. 35.

[3] *Ibid.*, 1917, p. 20.

[4] *Ibid.*, p. 10.

of Panama was still present. The fairly strong German propaganda took advantage of the situation and false rumors so persistently prevailed that United States troops had landed on Colombian territory, that formal demands for an investigation were made by the Colombian minister at Washington.[1]

Paraguay was little affected by the war and, since it was not influenced by continental policies, saw no occasion to take any definite stand in favor of either group of belligerents. However, sympathy was expressed for the principle of American solidarity in replying to the Uruguayan decree.

Venezuela also maintained a policy of neutrality throughout the conflict, although there seemed to be much popular sympathy for the Allies. General Juan Vicente Gomez, however, was still the ruling force in Venezuela and like Irigoyen of Argentina he succeeded in remaining aloof from the conflict. Economically, Venezuela enjoyed relative prosperity and was far from the zone of war activities. In addition, General Gomez has been accused of pro-German leanings similar to those of Carranza in Mexico.

B. Caribbean Republics

Continentalism played a more important part in the formulation of the war policies of the republics of the Caribbean area than of the South American continent. This was largely due to the influence of the United States in this region, which could not but affect the policies of a number of these countries.

Cuba

The attitude of Cuba was the most active, spontaneous and aggressive of any of the Caribbean republics. Its interpretation of the treaty of 1903, considerations of national defense, a sense of international responsibilities and a sentiment of continental solidarity combined in

[1] Republica de Colombia, *Informe del Ministerio de Relaciones Exteriores al Congreso, de* 1917, p. 103–107.

prompting the Cuban Government to enter the conflict after the United States. It might even be said that Cuba was the only Caribbean republic to take anything like an active participation in the war.

Cuba took its stand beside the United States in regard to Germany's submarine policy and severed diplomatic relations with the Imperial German Government.[1] On April 7, 1917, the day after the United States declared war, the Cuban Congress unanimously adopted a joint resolution to the effect that a state of war existed between the republic of Cuba and the German Empire. President Mario G. Menocal in his message to Congress declared that the republic of Cuba could not remain indifferent to the "stupendous violations of international law." And he also said:

> Nor can [the republic of Cuba] by any means decorously remain aloof from the stand nobly and courageously taken by the United States to which we are bound by sacred ties of gratitude and fraternity.[2]

Regarding the influence of the United States upon the policy of Cuba, Mr. Martin has said that "history offers few examples of a more spontaneous manifestation of loyalty and gratitude than that afforded by Cuba voluntarily placing her man power and her material resources at the service of the United States and the Allies in the world struggle."[3] On April 7, 1917, Dr. José Manuel Cortina declared before the Cuban Chamber of Deputies: "We go to fight as brothers beside that great people who have been ever the friends and protectors of Cuba, who aided us during the darkest days of our tragic history, in moments when opposed by enormous strength we had nearly disappeared from the face of the earth, when we had no

[1] *Boletín de Información* publicado por la Comisión nacional cubana de Propaganda por la Guerra y de Auxilio a sus Víctimas, June, 1920, p. 496.

[2] *Boletín Oficial de la Secretaria de Estado*, April, 1917, p. 207–211.

[3] Martin, Percy Alvin, *Latin America and the War*, p. 249 (World Peace Foundation, II, No. 4, August, 1919).

other refuge, no other loyal and magnanimous friend than the great North American people."[1] Yet Cuba did not blindly follow the United States, although its example played an important part in the formulation of Cuban policy.

Cuban participation in the war was loyal and generous, although necessarily restricted by a limited capacity. On August 3, 1918, a bill was passed providing for compulsory military service. There was also considerable cooperation with the United States regarding the sending and receiving of troops for military instruction.[2] On August 21, 1917, the Cuban Government turned over to the United States the four German vessels which were interned in Cuban waters.[3] The President was soon authorized to send troops and military missions abroad, although no troops landed in Europe before the armistice. An efficient censorship was established with the cooperation of United States experts. The Cuban Government cooperated very effectively with the United States Food Administration and on October 6, 1917, President Menocal decreed that the export regulations of the United States should apply to all exports of Cuba.

Central America

Five of the six Central American republics, viz., Panama, Guatemala, Honduras, Nicaragua and Costa Rica declared war against Germany shortly after the entrance of the United States into the world conflict. The community of interest between Panama and the United States was officially recognized as early as February 23, 1917, when the National Assembly unanimously adopted a resolution of sympathy with the purposes and ideals of the United States.[4] The resolution noted that Panama was bound to

[1] *Pan American Magazine*, XXVI, No. 1, November, 1917.

[2] *U. S. Official Bulletin*, September 24, 1918, p. 16, col. 1.

[3] *Boletin de Información*, publicado por la Comisión nacional cubana de Propaganda por la Guerra de Auxilio á sus Victimas, I, Numero 1, p. 26.

[4] Republica de Panama, *Memoria que presenta el Secretario de Relaciones Exteriores á la Honorable Asamblea Nacional en sus sesiones ordinarias de 1918*, p. 3.

the United States "not only by common interests, but also by bonds of affection and gratitude, and by the fact that both peoples have been influenced by the same ideals of international justice."

On April 7, 1917, the day following the Washington declaration of war, the President of Panama proclaimed common cause with the United States. The President declared that: "Our indisputable duty in this tremendous hour of history is of a common ally, whose interests and existence as well are linked indissolubly with the United States. As the situation creates dangers for our country, it is the duty of the Panaman people to cooperate with all the energies and resources they can command for the protection of the canal and to safeguard national territory."[1] Throughout the remainder of the war the Government of Panama cooperated closely with that of the United States, although not as an active participant.

Despite the strong German interests in Guatemala, President Cabrera severed diplomatic relations with Germany on April 27, 1917. In officially informing the United States of this action, the Guatemalan minister to the United States declared: "Guatemala takes the greatest pleasure in offering to the United States of America her territorial waters, her ports and railroads, for use in common defense, as also all elements which may be available for the same purposes." Admiral Caperton, who was sent to thank President Cabrera for this action reported the following reasons: (*a*) "Fear of aggression by Mexico and Salvador; (*b*) opportunity to increase the friendship of the United States, with consequent advantages in trade and protection; (*c*) opportunity to confiscate large German estates; (*d*) desire to strengthen Cabrera's administration."[2]

On April 22, 1918, the Guatemalan Government formally declared war against the Imperial German Government. The resolution of the National Assembly provided

[1] Republica de Panama, *Memoria que presenta el Secretario de Relaciones Exteriores á la Honorable Asamblea Nacional en sus sesiones ordinarias de 1918*, p. 5-6; Naval War College, *International Law Documents*, 1917, p. 196.

[2] Sen. Doc. 285, 66th Cong., 2d sess., p. 3212.

that "continental solidarity, the geographical position of the country and the bonds, historical and international, existing between the United States and Guatemala, indicate the form of conduct to be followed in the present case," and led Guatemala to assume the same belligerent attitude.

From the beginning of the European War, Nicaragua like Panama, closely pursued the policy of the United States. It will be recalled that the Bryan-Chamorro treaty had just been negotiated and that Nicaragua had received the tacit support of the United States in its attitude toward the cases brought against it before the Central American Court of Justice. United States marines were maintained in Managua, while the collection of customs was supervised by a citizen of the United States. It was therefore natural that war policy should have been in close harmony.

On May 18, 1917, the Nicaraguan Congress decreed severance of diplomatic relations with Germany and authorized the President to grant to the United States the use of its territorial waters and its means of communications.[1] On May 6, 1918, Nicaragua declared war against Germany and Austria-Hungary and proclaimed solidarity with the United States and the other Latin American republics which had entered the conflict.[2]

The policy of Honduras was also in conformity with that of the United States. Following the severance of diplomatic relations between the United States and Germany, Honduras on May 17, 1917, took similar action. The minister of foreign affairs in notifying the United States of its action said that Honduras, being "impelled by the cordial friendship which exists between Honduras and the United States by common interests and the sentiment of American solidarity," had resolved to "adhere to the cause" which the Government of the United States

[1] Republica de Nicaragua, Ministerio de Relaciones Exteriores, *Memoria presentada al Congreso Nacional . . . 1917*, II, p. 57–58.

[2] *Memoria . . . 1918*, I, p. xxix and 239.

maintained in the conflict.[1] Over a year later (July 19, 1918), Honduras declared war against Germany by presidential decree.

The attitude of Costa Rica toward the World War was complicated by internal conditions. The *coup d'état* of 1917 overthrew the Gonzalez Government and established the Tinoco régime, whose Government was not recognized by the United States or the Allied Governments. The larger Latin American Governments also refused recognition. Despite the fact that Germany recognized the new Government, the Tinoco administration early in 1917 offered the use of its territorial waters of Costa Rica to the Allies. On April 12 it declared support of the United States.[2] Diplomatic relations with Germany were severed on September 21, 1917. War was formally declared on May 24, 1918. The United States and the Allies, nevertheless, consistently refused to recognize the Tinoco Government. Hence the anomalous situation whereby Costa Rica, although officially at war with Germany, was not recognized as a member of the Allies.

The only Central American Government which did not declare war against Germany was that of Salvador. The influence of the United States was less marked in this republic than in any of the other six isthmian states. Then, too, Salvador was disappointed at the disregard by the United States of the decision of the Central American Court of Justice in its case against Nicaragua concerning the Fonseca Bay naval base.[3]

Salvador, however, maintained a policy of benevolent neutrality toward the United States and the allies in recognition of the "solidarity which binds it to the great republic of the north." Although technically neutral, it allowed vessels of the United States to use its ports with the same

[1] Republica de Honduras, *Memoria del Secretario de Estado en el Despacho de Relaciones Exteriores . . . presentado al Congreso Nacional, 1916–1917*, p. 162.

[2] Naval War College, *International Law Documents*, 1917, p. 77.

[3] Republica de El Salvador, *Memoria de Relaciones Exteriores, Instruccion Publica y Justicia correspondiente al año de 1917*, p. 19; see also note of October 6, 1917, Naval War College, *International Law Documents*, 1917, p. 210.

rights and privileges as ships of Salvador. This policy was prompted by the fact that Salvador was a member of the Pan American family of nations and did not regard the United States, — a comember, — in the same light as other belligerents.[1] Salvador maintained this attitude throughout the remainder of the conflict.

Dominican Republic

The Dominican Republic withdrew the exequaturs of German consuls in that country in July, 1917, and since Germany did not have a minister in Haiti, this action was regarded as a severance of diplomatic relations. It should be noted, however, that the marines of the United States were occupying the republic at that time.

Haiti

United States marines had occupied Haiti in 1915 and the established Haitian Government was consequently in complete harmony with its big brother. The sentiment of the country was strongly pro-French. The President recommended a break with Germany shortly after the United States entered the war but the National Assembly refused to take such action. Although the Assembly was dissolved on June 19, 1917, war was not declared until July 12, 1918.

Mexico

In many respects the attitude of Mexico in the war more nearly resembled that of Argentina than of any other American republic. It maintained an official neutrality from the first. The Vera Cruz episode, the Villa expedition, the strong German influence and the attitude of President Carranza toward the United States, all contributed to a determination to maintain a technical neutrality.

[1] Republica de El Salvador, *Memoria de Relaciones Exteriores, Instruccion Publica y Justicia correspondiente al año de 1917*, p. 19; see also note of October 6, 1917, Naval War College, *International Law Documents*, 1917, p. 210.

Strong German propaganda flourished and Mexico was the center of an efficient German espionage system. Although President Carranza repeatedly asserted that his Government was strictly adhering to neutrality, the allies entertained considerable doubt regarding the actual situation. This suspicion was fortified by the Mexican proposal on February 12, 1917, to all other neutral Governments, that the groups of contending powers be invited to bring the war to an end. "If within a reasonable term peace could not be restored . . . the neutral countries would then take the necessary measures to reduce the conflagration to its narrowest limits by refusing any kind of implements to the belligerents and suspending commercial relations with the warring nations until the said conflagration shall have been smothered."[1] This proposal was made 13 days after the inauguration of unrestricted submarine campaign and seven days after the United States broke diplomatic relations with Germany. Such a plan would have hampered the allies and worked to the advantage of the central powers. The proposal led to no tangible results.[2]

The famous Zimmermann dispatch of January 19, 1917, indicated that Germany was confident of Mexican sympathy. Although the Mexican chargé d'affaires at Washington formally denied any implication of his Government in the affair, President Carranza refrained from making any statement. Carranza's suspicion of the United States was in evidence on many occasions and was one of the factors which influenced Mexico's war policy.

3. Method of Acquiring Membership

The Covenant of the League of Nations was Part I of the treaties of peace and hence the method by which the Governments acquired membership in the League of Na-

[1] Department of State, *Diplomatic Correspondence with the Belligerent Governments relating to Neutral Rights and Duties. European War, No. 4*, p. 349–351.

[2] Attitude of the United States, see *ibid.*, p. 351.

tions varied in accordance with their respective status in the war. All of the American Governments which had declared war or severed diplomatic relations with Germany were represented in the Peace Conference, except Costa Rica and the Dominican Republic. The neutral republics had no official voice in drafting the Covenant. This fact led Argentina to propose a radical change in the organization of the League at the First Assembly in 1920.

Eleven of the 13 Latin American republics which had severed relations with Germany were represented at the Peace Conference and signed the treaty of Versailles. All of these except Ecuador ratified the treaty and thus became original members of the League of Nations. Costa Rica was admitted in 1920 by the First Assembly. The remaining seven republics, those which had remained neutral during the conflict, were not represented at the Peace Conference although all except Mexico were invited to accede to the Covenant, which they all did. Thus the First Assembly saw all of the Latin American republics Members of the League except Mexico, Ecuador and the Dominican Republic. The Dominican Republic was admitted as a Member on September 29, 1924.

With the signing of the armistice, Brazil stood as the champion and leader of the Latin American countries. The Brazilian plenipotentiary to the Peace Conference was made a member of the Commission on the League of Nations. At his request Art. 26, par. 2, was added to the Covenant to the effect that a state shall cease to be a member of the League if any amendment shall be added to which it does not wish to be bound.[1] When 14 nations deposited the procès-verbal of their ratification in the French Foreign Office at Paris January 10, 1920, Brazil became one of the first Members of the League of Nations. She was named by Art. 4 of the Covenant as a member of the League Council to serve until the Assembly should elect the nonpermanent members.

[1] *Protocole de la Conférence des Préliminaries de Paix*, No. 5.

Cuba

Cuba was represented at the Peace Conference by the distinguished jurist and statesman, Dr. Antonio Sanchez de Bustamante, who interested himself in the rights of smaller nations. He was partly responsible for the provision in the Covenant which allows a member to withdraw after two years' notice, provided all its obligations under the Covenant have been fulfilled. On February 4, 1920, the Cuban Congress approved the treaty of Versailles and on March 8, 1920, the ratification was deposited at Paris. Some Cubans questioned the advisability of taking action not in harmony with the United States but the great majority favored independence in foreign policy in harmony with what they considered the best national interests.

Peru

Peru, having broken diplomatic relations with Germany, was a member of the Peace Conference.

The treaty of Versailles was submitted to the National Assembly on September 25, 1919, by the minister of foreign affairs.[1] The Comisión diplomática, to which it had been referred, reported favorably on November 17, 1919; the same day it was unanimously approved by the Assembly after several speeches favoring ratification had been made. Ratification, however, was not deposited until March 9, 1920.

The discussion — not debate — seemed more to emphasize approval than to examine the subject. Ratification was a foregone conclusion; as the minister in opening the discussion said: "It is not necessary to tire the Senators and Representatives with any analytical study of the various articles of the treaty."[2] An analysis of the speeches reveals that the members of the Assembly[3] agreed upon one

[1] *Diario de los Debates de la Asamblea Nacional*, 1919, p. 15.

[2] *Ibid.*, p. 785.

[3] The assembly was constituent and produced the revision of the national constitution adopted January 18, 1920.

thing, *viz.*, the conviction that the League would take cognizance of the problem of Tacna and Arica and give them justice, as they viewed it. Thus they saw the League as an instrument which would compel the revision of the treaty of Ancón and restore to Peru its lost provinces.

It can be said in general that Peru labored under an illusion regarding the purposes of the League. The preamble's statement that the nations agree to the Covenant "in order to achieve international peace and security by the maintenance of justice and a scrupulous respect for all treaty obligations" meant to a Peruvian but one thing as far as the "Pacific Problem" was concerned. Tarapaca had been alienated by force while the principle of self-determination, although provided for in the treaty of Ancón, had never been put into effect in Tacna and Arica. Peru envisaged a vindication of the policy pursued toward its neighbor to the south, a plebiscite with full liberty to vote. No better statement of the Peruvian position can be found than in the words of the minister of foreign affairs in his opening speech before the National Assembly. He said:[1]

> This treaty needs no defense. It is universal and permanent, it does not signify the imposition of victor over vanquished, but the determination of principles which are going to try to give justice to the world. Peru has international problems to settle, questions of limits with some of its neighbors. . . . The treaty offers us the security that these questions will be discussed and solved peacefully. It offers us the security that there will be no trouble in these discussions and the result will correspond to justice and the interests of the parties concerned. It promises us, that the international problem, essentially linked to the dearest sentiments of the country, also will be solved according to the sacred rights of nations. . . . The treaty assures a just and rational solution according to principles of self-determination. The conditions in which the plebiscites have been organized for resolving the political problems of Europe reveals clearly that, in our diplomacy with the republic to the south, we have had the right to say that reason was on our side, to sus-

[1] *Diario de los Debates de la Asamblea Nacional*, 1919, p. 791.

tain what were conditions indispensable to organize the plebiscite. . . . We are able to say that the great treaty which has for its object the maintenance of peace and justice in the world also supports in all events, the satisfaction of the nationals.

Sr. Valcarcel, president of the Comisión diplomática, which reported favorably to the Assembly after considering the treaty in committee said:[1] "Forty years have passed and yet notwithstanding repeated demands for justice, we have not been able to secure our territory. We have to-day the League of Nations and those who have suffered from the brutalities of force for 40 years . . . can not doubt that justice will be given us."

Sr. Pradoy Ugarteche spoke of the mutilations imposed by violence which must be repaired, while Sr. Maurtúa said that "the Covenant of the League of Nations contains for Peru two fundamental points of international law . . ., one on plebiscite . . . and the other, the inalienable right of nations to recover at any time and in whatever form, the territories which were taken from them by violence. . . . The treaty of Versailles defines the perfect right of Peru to recover for all time and in whatever form the territory of Tarapaca."[2] Sr. Salazar Oyarzabal of the opposition party in favoring the treaty said: "The Covenant of the League of Nations prepares for Peru the best means for the recovery of that which the Peruvian people have to hope for."[3]

It is interesting to note that not one of the speeches made during the consideration of the treaty voiced any opposition or expressed a doubt regarding the efficacy of the new world organization for solving American problems. The treaty was approved unanimously[4] the day it was brought up for discussion, after which a resolution was passed to send a message to President Wilson.

[1] *Diario de los Debates de la Asamblea Nacional*, 1919, p. 793.
[2] *Ibid.*, p. 796.
[3] *Ibid.*, p. 803.
[4] *Ibid.*, p. 802.

In the closing session of the Assembly, December 27, 1919, a resolution was passed which had been signed by all members who signed the revised Constitution. It reads as follows:[1]

The National Assembly of 1919, the only constituent body meeting since the war with Chile, and which has approved the Covenant of the League of Nations, before its adjournment considers it its unavoidable duty to declare before America and the world in the name of Peru:

1. That the dismemberment of the department of Tarapaca, the richest territory of America, constitutes a conquest of territory and thus is an act of iniquity and of force that does not have a precedent in the history of the modern world.

2. That the treaty of Ancón has been violated by the conqueror in not fulfilling the clause which provided for a plebiscite in the provinces of Tacna and Arica in 1893.

3. That in virtue of this Chile not only conquered by aggression during the war but it pretends to conquer by violent retention in peace.

Hopes that the patriotism of the Congress and of the Government will use all of its power and influence with a view that the League of Nations and the action of the interested powers will, according to justice, protect the just, legitimate and imprescriptible claims of Peru.

Mariano H. Cornejo, the president, said in his closing speech that: "The League of Nations, which you approved, fired by emotions and seconded by popular patriotism, free from the obstacles of oligarchy, will resolve without a doubt, the international problem of Tacna-Arica."[2] This statement was received with long and unanimous applause, which evidenced the sincere approval of the Constituent Assembly.

Argentina

Argentina, not having been a member of the Peace Conference, did not assist in drawing up the Covenant of the League, except in attending the two informal meetings of

[1] The signatories numbered 122, 30 senators and 92 representatives.

[2] *Diario de los Debates, Asamblea Nacional*, 1919, Vol. 2, p. 1565–1567.

the neutrals with the subcommittee of the drafting committee.[1] Two factors are important. First, Brazil was in a very favorable position, while Argentina was not. Second, the President had envisioned his country as playing a prominent rôle as one of the leading neutrals in organizing the new world order which was being talked about. Hipólito Irigoyen may have had too exalted an opinion of the place which Argentina held in the family of nations. His international perspective may have been influenced by his intense nationalism. He spoke of a world conference of all nations rather than of the victors. Such a conference to discuss impartially an ideal world organization, however, was far from realizable in a war atmosphere and it is now generally admitted that the League or any association would not have been created if its charter had not been made at the Peace Conference.

Argentina was the first South American republic to accept the invitation to accede to the Covenant. The minister for foreign affairs, Honorio A. Pueyrredon, on July 12, 1929, sent the minister at Paris, Marcelo T. de Alvear, the following instruction:[2]

> In accordance with Art. 1 of the Covenant of the League of Nations, the Executive Power has decided to adhere to it without any reservation. Publish this decision. Please deposit with the Secretariat the appropriate communication.

Minister de Alvear notified the Secretary-General on July 18 and 29 of Argentina's adherence.[3]

The Argentine action was premature. Sir Eric Drummond informed the minister by note of July 23, 1919,[4] that the League had not yet been legally constituted and that he could not then carry out his duties as Secretary General

[1] See David Hunter Miller, *The Drafting of the Covenant*, I, p. 303; II, p. 592.

[2] Juan B. Sivori, *La Liga de las Naciones*, su origen y la obra realizada en la República Argentina, p. 503 (Buenos Aires, 1928).

[3] *Official Journal*, 1920, p. 13–14.

[4] Juan B. Sivori, *La Liga de las Naciones*, su origen y la obra realizada en la República Argentina, p. 504 (Buenos Aires, 1928).

respecting adherence.[1] The Secretary-General asked if it was the desire of Argentina to adhere as soon as the necessary ratifications should be made. The Argentine minister at Paris, Sr. Alvear, replied on July 29, that such was the interpretation to be given to the note of July 18; the Government "will ratify this adhesion as soon as the Chambers have given their approval."[2]

On the entrance of the treaty of Versailles into force on January 10, 1920, Premier Clémenceau of France addressed to President Irigoyen a formal invitation to adhere to the Covenant of the League.[3] On the 16th the Argentine President replied: "I take pleasure in transmitting to Your Excellency the formal ratification of the Argentine Government under the conditions of adhesion expressed in the note of July 18, 1919, addressed to the Secretary-General of the League by our representative in France." On January 10, moreover, Sir Eric Drummond informed the Argentine minister of foreign affairs that "in accordance with my reply of July 23, 1919, to your note dated July 18, I have in due form notified the Governments of all the other states which have ratified the treaty or adhered to the Covenant, and so are Members of the League, that the Argentine Republic has deposited in the Secretariat a declaration of adhesion." On February 11, Honorio Pueyrredon, the minister of foreign affairs at Buenos Aires, acknowledged this dispatch in the customary form of repeating its content.

The Congress had not been consulted respecting this action, and its first official notice of Argentine membership in the League was the presidential message of September 23, 1920, which requested approval of delegates to the First Assembly.[4] In commenting upon the message, *La Prensa* on September 26, 1920, criticized the President and insisted

[1] República Argentina, Ministerio de Relaciones Exteriores y Culto, Boletín de la Liga de Las Naciones, No. 1, 1920, p. 45.

[2] *Ibid.*, p. 45–46.

[3] Juan B. Sivori, *La Liga de las Naciones*, su origen y la obra realizada en la República Argentina, p. 506 (Buenos Aires, 1928).

[4] República Argentina, Ministerio de Relaciones Exteriores y Culto, *La Republica Argentina ante la Liga de las Naciones*, 1922, p. 149.

that he comply with the constitutional requirements and submit the Covenant to Congress.[1]

The Argentine Congress had not approved the Covenant when the Argentine delegation was admitted to the First Assembly of the League. It does not appear in the official documents or in the press that any doubts were expressed regarding the credentials of the Argentine delegation which, in any case, would be issued by the executive rather than the legislative branch of the Government. A careful examination of the documents, private correspondence and press reports furnishes no evidence that the Argentine Foreign Office had anything more than a rather hazy and general conviction that the League should be a theoretically ideal organization. There seems to be abundant evidence (1) that no serious and exhaustive study had been made or any definite plan or proposal formulated for a change in the Covenant; (2) that the chief executive had not consulted the legislative authority; (3) that there was a considerable amount of criticism of the President's attitude; and (4) that many were skeptical regarding the Covenant in view of the objections which had been brought out in the United States and Switzerland. Much space was given to these objections in Argentine official publications, although no definite plan appeared to represent the Argentine point of view.

Chile

Chile proposed a definite program and cooperated in formulating plans in accordance with their views. On March 19, 1919, authorization was cabled to the legation in Paris manifesting acceptance of the "general ideas regarding the organization of the League of Nations to assure peace by international cooperation and maintain a scrupulous respect for the existing treaties, affirming at the same time the principles that constitute the American rights as proclaimed in all of the Pan American conferences."[2]

[1] *La Prensa*, Buenos Aires, September 26, 1920, p. 9.

[2] L. Borros Borgoño, *The Problem of the Pacific and the New Policies of Bolivia*, p. 20 (Baltimore, 1924).

On October 4, 1919, the President in a message presented to the Senate the question of acceptance of the Covenant. After reviewing its general provisions, he proposed a resolution to "authorize the President of the Republic to require the acceptance, on the part of Chile, of the Covenant of the League of Nations."[1] At the request of the minister of foreign affairs, Luis Borros Borgoño, preference was granted to the project, an unusual procedure requiring a unanimous vote. This procedure was requested on account of "the importance and the urgency of the affair." Moreover, "the Argentine Republic has already given (*prestado*) its adherence in the manner required by the Covenant, *i.e.*, without reservation."[2] The minister sketched the traditional policy of Chile as one of conciliation and arbitration. Approval of the League was, he said, "destined to establish among the nations a new régime of cooperation and friendly agreement . . . and which is able to be, and must always be, the instrument of peace and sincere rapprochement among all the people." His concluding sentence was, "as stated before, the Republic of Argentina has already given its complete acceptance."[3]

On October 20, 1919, the Committee of Foreign Affairs reported that it had unanimously recommended on October 16 the acceptance of the Covenant by Chile. On October 27, the Congress accepted the Covenant, reserving (Art. II) "the right to consider modifications or safeguards which the signatory nations might make which have not yet ratified it" and directed the minister (Art. IV) to publish the official text.[4] The Chilean minister in London notified the Secretary-General on November 4, 1919, of his Government's action.

The minister of foreign affairs was apparently spurred on by the fact that Argentina had already given its ad-

[1] *El Convenio de la Liga de las Naciones*, p. 16 (Santiago, Chile, 1920).

[2] *Ibid.*, p. 17.

[3] *Ibid.*, p. 25–26.

[4] *Boletín de las Leyes y Decretos del Gobierno.*

herence, but could hardly have been acquainted with the real position in Argentina. According to Antonio Huneeus Gana, Argentina did not even apprise Chile of its attitude toward the League, even at the conference of the Chilean delegates with President Irigoyen before they sailed from Buenos Aires to attend the first League Assembly. Hence, it would seem that the Government of Chile was misled regarding the adherence of Argentina to the League.

Other States

Uruguay was represented at the Peace Conference, where Juan Antonio Buero announced his perfect accord with the League of Nations Covenant at the fifth plenary session.[1] Uruguay promptly ratified on October 24, 1919, and was one of the nations to deposit its ratification in Paris on January 10, 1920.

The delegate from Honduras, ex-President Policarpo Bonilla, urged that the reference to the Monroe doctrine in Art. 21 of the Covenant be stated more clearly. His proposal did not meet with approval, and it does not appear that it received any serious attention.[2] Honduras did not become a member until November 3, 1920.

Guatemala and Panama became members on January 10, 1920. Guatemala had ratified on October 2, 1919, and Panama on January 8, 1920. The Nicaraguan Congress accepted the treaty April 7, 1920, and effected ratification on November 3, 1920. The National Assembly of Haiti approved on June 5, 1920, and the Government became a member June 30, 1920.

The two American nations which had neither severed diplomatic relations with Germany nor declared war, viz., the Dominican Republic and Costa Rica, were not represented at the Peace Conference. Costa Rica sought to be admitted to the conference but failed. As noted above, the United States and Allies had refused to

[1] Protocole de la Conférence des Préliminaires de Paix, No. 5, p. 9. (See Hearings before the Committee on Foreign Relations, U. S. Senate, 1919.)

[2] *Ibid.*, p. 21.

recognize the Tinoco Government and therefore to them it had no official international standing. The Tinoco Government was soon overthrown and a constitutional government reestablished. On December 1, 1920, Costa Rica applied for admission and on December 16, 1920, the First League Assembly unanimously admitted it to membership.[1]

The Dominican Republic was occupied by the United States. After the United States withdrew in 1924, the Dominican Government requested admission to the League in a telegram to the Secretary-General on September 23, 1924. The Dominican Republic was admitted by the Fifth Assembly on September 29, 1924.[2]

The six republics which had maintained neutrality accepted the invitation to become members. Mexico was not invited to accede to the Covenant. This was probably due to its attitude during the war and to its policy toward foreigners and their property. President Carranza referred to Mexico's status in his message to Congress September 1, 1919, in the following manner:[3]

> When the struggle was over, the Governments of the Allied powers met to constitute a League of Nations, to which it was said that almost all countries would have access under certain conditions; all were invited except a few, Mexico among them, and our Government has done nothing, nor will ever do anything, to enter into that international society, because the bases upon which it was formed do not establish, either as to its functions or as to its organization, a perfect equality for all nations and races . . .

Señor Edwards of Chile, as president of the Third Assembly, on September 30, 1922, declared: "Need I say with what joy the League will welcome the great Mexican nation into its circle whenever she feels that the time for joining us has come? For the Latin American nations the

[1] *Records of the First Assembly, Plenary Meetings*, p. 584.

[2] *Records of the Fifth Assembly, Plenary Meetings*, p. 189.

[3] *Diario Oficial*, September 1, 1919, p. 28 (Informe Presidencial).

collaboration of a sister republic . . . will be of greatest value."[1]

An invitation was extended but it was refused on September 14, 1923. The reply stated that as long as the Mexican Government remained unrecognized by Great Britain, "Mexico will be forced to decline suggestions that she apply for admission to the League."[2] Since that time there have been many expressions before the Assembly by Latin delegates of the hope that Mexico might join but no action has ever been taken. In December, 1929, Mexico accredited an observer to Geneva to follow League of Nations activities.

The neutrals were invited by the Commission on the League of Nations of the Peace Conference to meet for an expression of views on the proposed organization. Two rather informal meetings were held on March 20 and 21, 1919, with a subcommittee of that commission. Argentina, Salvador and Chile were represented at the meetings by their respective diplomatic agents in Paris.

Salvador approved the principle of the League of Nations and expressed the hope that it would guarantee the integrity and autonomy of the smaller nations. However, it hesitated to join on account of uncertainty regarding the meaning of Art. 21, which provides that nothing in the Covenant "shall be deemed to affect the validity of international engagements . . . such as the Monroe doctrine." It requested the United States on December 14, 1919, to define more clearly the scope and character of that doctrine.[3] On February 26, 1920, the United States replied by referring to President Wilson's speech of January 16, 1916, before the Pan American Scientific Congress. This seemed to satisfy the Government of Salvador for on March 5, 1920, it adhered to the Covenant of the League by executive

[1] League of Nations, *Records of the Third Assembly* (1922), Part I, p. 393.

[2] Great Britain recognized the Calles Government in *1923*.

[3] Republica de El Salvador, Ministerio de Relaciones Exteriores, *Libro Rosado;* contiene la actuacion de la cancilleria salvadorena relativa a la aceptacion y adhesion de El Salvador al pacto international Liga de las Naciones, p. 36 (San Salvador, 1920).

decree. Adhesion was deposited March 10, 1920, and the Legislative Assembly ratified the action the next day.[1]

Paraguay adhered to the Covenant on October 29, 1919,[2] and filed the proper instrument on December 26, 1919.

Venezuela accepted the Covenant and became a Member on March 3, 1920.

Colombia adhered February 16, 1920. The letter to the Secretary-General stated that it desired to adhere to the Covenant, but did not wish this action to constitute a recognition of the independence of Panama. The Council of the League [3] on February 12, 1920, authorized the Secretary General to acknowledge the proposal "without expressing any opinion on the point at issue." The letter of accession was circulated to all Members of the League.

[1] Republica de El Salvador, *Diario Oficial*, March 19, 1920.

[2] *Official Journal*, I, p. 14.

[3] Procès-Verbal of the Council, Second Session, 4th meeting, p. 4.

III. PARTICIPATION IN THE LEAGUE

1. South American Republics

Brazil

THE relations of Brazil with the League are probably the most interesting of any Latin American country on account of its prominent rôle in the organization of the institution and its energetic and consistent cooperation during the first five years. Brazil attracted world-wide attention by its attitude toward the reorganization of the Council during the Extraordinary Session of the Assembly in March, 1926, which was followed by its notice of withdrawal.

Brazil accepted the purposes of the League of Nations as worthy of trial, and was honored by being made a member of the League Council. In his address on the occasion of Secretary Colby's visit to Rio de Janeiro in December, 1920, President Pessoa expressed regret that the United States had failed to ratify the treaty of Versailles. Brazil, he declared "is naturally very much interested in the beneficial purposes of the League of Nations. Therefore, it is a matter of regret that the United States, which took the leading part in that great project, has not retained it."[1]

Dr. Nuno Panheiro expressed the attitude of Brazil in March, 1921, thus: "The North American Union, having repudiated, in part, the work of Mr. Wilson in the Peace Conference, thus left Brazil alone to represent America in the place where it formerly stood side by side with the United States. Not that this changes in any degree Brazil's sentiment toward, and solidarity with, the United States. On the contrary, Brazil rejoices in being able, in the absence of the United States to interpret in the international conventions (*sic*) in Europe the spirit and

[1] *Independent*, Jan. 8, 1921, Vol. CV, p. 49.

ideals of America, whose exponent heretofore has always been the great Republic of the North."[1]

By Art. 4 of the Covenant Brazil was made a member of the Council to serve until the Assembly should elect the non-permanent members. M. Gastão da Cunha, the Brazilian ambassador in Paris, was designated to represent his Government on the Council. His tact and ability won recognition both in the Council and in the Assembly, and during the first year he was made rapporteur on a number of important questions, such as the constitution of the international body for health problems, traffic in women and children, typhus in Poland, and Eupen and Malmédy. He served as one of the three Brazilian delegates to the First Assembly. His proposal before the Assembly[2] for the organization of the technical organizations was adopted. It might be of interest to note that on November 20, 1920, at the second meeting of the Sixth Committee, Senhor da Cunha submitted a resolution to the effect that the private manufacture of war material of every kind, intended for use on land or sea or in the air, be made a state monopoly, and that all private enterprises and interests be prohibited. He urged that the Assembly call upon all states Members of the League of Nations to introduce into their national legislatures the measures necessary to put an end to private manufacture of armaments.[3] This began the consideration of a question posed in the Covenant.

M. Gastão da Cunha in the second year was president of the Council during the trying days when that body was considering the Polish-Lithuanian controversy. It was during this year that the problem of the deportation of women and children in Turkey and the neighboring countries was considered and the Brazilian delegate took a prominent part in it. The Second Assembly elected Brazil

[1] Dr. Nuno Panheiro, "Brazil and Latin America confronting the League of Nations and Imperialism of North America," *Pan American Magazine*, March, 1921, p. 197.

[2] *Records of the First Assembly, Plenary Meetings*, p. 336.

[3] *Ibid., Meetings of Committees*, II, p. 252.

as a nonpermanent member of the Council by the largest vote received by any member, 38 out of a possible 41.[1]

Rodrigo Octavio de Langaard Menezes, Undersecretary of State for Foreign Affairs, served as a Brazilian delegate to the First Assembly and as one of the six vice-presidents was a member of the General Committee. He was appointed to the Fifth Committee which at this session was one of the most important, having to do with the admission of new members. At the 27th plenary meeting on December 16, 1920, Senhor Octavio, as rapporteur for the Fifth Committee, after reviewing the facts stated that the committee could not recommend that all states be admitted by the League. This stand of the Brazilian delegation against universal admission is interesting since the Argentine delegation had sponsored the proposition that all nations should be admitted without question, whether they wished to be or not. The Assembly's acceptance of the report led Argentina to withdraw its delegates.

Brazil participated in defining the powers and organization of the League. In the First Assembly on a proposal that the committees of the Assembly be made permanent, Octavio observed "that the permanent committees would deprive the Council of the executive authority, that the position of a representative to the Assembly was that of a mandatory and did not permit him to depart from his instructions; and since the mandate terminated with the session of the Assembly it was impossible to understand how members could continue to consider themselves as delegates after the Assembly had risen." This became the recognized principle.

The third delegate to the First Assembly was Raul Fernandes, a member of the Federal House of Representatives and former plenipotentiary to the Peace Conference. Dr. Fernandes has probably added more to the prestige and influence of Brazil by his work in connection with the League than any other one Brazilian. He was a valued member of the Advisory Committee of Jurists to draft

[1] *Records of the Second Assembly, Plenary Meetings*, p. 898.

the scheme for the Permanent Court of International Justice. This committee of ten legal experts met at The Hague June 16, 1920, and formulated the draft scheme for the organization of the World Court. As a delegate to the Assembly he was a member of the Third Committee which had to do with the organization of the Permanent Court of International Justice.[1] Still more important, he was one of five members of the Assembly, who, together with five additional legal experts, made up the Jurist's Committee that studied the plans submitted by the Hague Committee to the Council.[2] One needs but glance through the Records of the First Assembly to get an idea of how prominent Dr. Fernandes was in the formulation of the scheme for the World Court. He fought for establishing the Statute of the Court by a simple vote of the Assembly rather than by a separate convention and won in his contention.[3] At The Hague he had lost his proposal for the publicity of dissenting opinions, but won his point before the committee and the Assembly.[4]

Dr. Fernandes performed a great service when the Assembly was nearing a deadlock over the question of compulsory jurisdiction of the Court. On this subject two opposing views were taken: One side, the majority of which were small states, favored compulsory jurisdiction, while the great "powers" opposed such jurisdiction. As unanimity was required, the supporters of obligatory jurisdiction (who constituted the larger number) found themselves face to face with a deadlock. At this perplexing moment, Dr. Fernandes proposed retaining both the provisions of the Advisory Committee for compulsory jurisdiction, which he had favored, and those of the Council, leaving it to each state, in ratifying, to choose between compulsory and voluntary jurisdiction. This compromise saved the situation and the Statute was adopted so as to enable the Members to accept compulsory jurisdiction by means of the

[1] *Records of the First Assembly, Plenary Meetings*, p. 19.

[2] *Ibid., Meetings of Committees*, I, p. 332.

[3] *Ibid.*, p. 298.

[4] *Ibid.*, p. 374.

Optional Clause when ratifying the protocol of signature if they so desired. "Dr. Fernandes," said Rodrigo Octavio, "succeeded in winning the admiration and respect of his colleagues on the Advisory Committee at The Hague, and both there and later in Geneva he gave luster to the name of Brazil."[1]

Regarding the question of amending the Covenant of the League, Dr. Fernandes strongly favored a majority rather than a unanimous vote. He contended that the acceptance of an amendment by a majority vote in the Assembly would not infringe in the least upon the sovereignty of such states as rejected the amendment, for as he pointed out, according to Art. 26, every Member was free to dissent from an amendment, in which case it would cease to be a Member of the League. They would not, therefore, bind a state by a vote to which it did not agree. This provision had been inserted in the Covenant, Dr. Fernandes said, at the suggestion of M. Epitacio Pessõa, the Brazilian delegate to the League of Nations Commission. Dr. Fernandes was probably the outstanding figure in the discussion of the question and as a result, he drafted the amendments to Art. 26 of the Covenant which are now before the Members for ratification. These embodied the proposals of a number of delegates and were voted at the Second Session of the Assembly in 1921, as follows:[2]

Amendments to the present Covenant the text of which shall have been voted by the Assembly on a three-fourths majority, in which there shall be included the votes of all the Members of the Council represented at the meeting, will take effect when ratified by the Members of the League whose representatives composed the Council when the vote was taken and by the majority of those whose representatives form the Assembly.

If the required number of ratifications shall not have been obtained within 22 months after the vote of the Assembly, the proposed amendment shall remain without effect.

[1] "Versailles Covenant and the Geneva Assembly," *Inter-America*, Vol. V, p. 376.

[2] *Resolutions and Recommendations adopted by the Assembly during its Second Session*, p. 9–10 (*Official Journal*, Spec. Sup. No. 6).

The Secretary-General shall inform the Members of the taking effect of an amendment.

Any Member of the League which has not at that time ratified the amendment is free to notify the Secretary-General within a year of its refusal to accept it, but in that case it shall cease to be a Member of the League.

Dr. J. A. Barboza Carneiro has been an expert connected with the Brazilian delegation since the First Assembly. He was prominent in the drawing up of the scheme for the allocation of the League's expenses. He was also a member of the committee on the organization of the Secretariat and a delegate to the International Financial Conference at Brussels. At the Second Assembly Dr. Barboza Carneiro urged the creation of an office of the Secretariat in Latin America and as a result the study ending in establishing the Liaison Bureau was undertaken.[1]

When the Second Assembly and Council of the League of Nations on September 14–15, 1921, proceeded to the election of the Judges of the Permanent Court of International Justice, Brazil's nomination included the American statesman, whose Pan American policy had received the hearty support of all Latin America, — Elihu Root. When the Court was finally constituted, the Brazilian legal system was honored by the eminent statesman and jurist, Ruy Barbosa, being elected a judge. Senhor Barbosa died March 1, 1923, and the vacancy was filled September 10, 1923, by the election of Epitacio da Silva Pessõa, former President of Brazil.

We shall refrain from recording full committee assignments in considering participation of the various delegations in the Assembly. As each nation is entitled to a delegate on each of the six committees of the Assembly, the delegates of each country are necessarily members of one or more committees. Unless they took a reasonably active part in the work of the committee, no further personal mention of them will be made. When a nation is represented by only

[1] See p. 142.

one delegate, which is the case with some of the nations, for example, Salvador, Paraguay or Guatemala, that delegate may divide his time and attention as he so desires.

Senhor don Domicio da Gama, the Brazilian ambassador in London, headed the delegation to the Third Assembly. The other two delegates were likewise new — R. Regis de Oliveira, ambassador to Mexico, and J. Raul do Rio Branco, minister to Bern. In this Assembly Brazil played a rather passive rôle. Senhor da Gama as president of the Council was provisional president of the Assembly and in that capacity made the opening address. Senhor Regis de Oliveira reiterated before the Third Committee the argument on reduction of armaments which, as previously presented, indicated that Brazil could not reduce its military force. Brazil was reelected as a nonpermanent member of the Council for the ensuing year by 42 out of 46 votes cast, the highest number received by any state, despite the absence of five Latin American members.[1]

Afranio de Mello-Franco headed the Brazilian delegation to the Fourth Assembly. Senhor de Mello-Franco had been president of the Brazilian delegation to the Fifth Pan American Conference, was a member of the Permanent Court of Arbitration at The Hague, had been minister to Bolivia and had also held important governmental positions in Brazil. He was made chairman of the Fifth Committee and ex-officio vice-president of the Assembly. Senhor de Mello-Franco was accredited to the League of Nations with the rank of ambassador and was head of the Permanent Brazilian delegation to the League of Nations. He served as representative on the Council and in that capacity led the fight for a permanent seat for Brazil in 1926. The other delegates at the Fourth Assembly were Raul do Rio Branco, minister to Bern, and Frederico de Castello Branco-Clark, minister to Venezuela and deputy minister on the Permanent Delegation to the League of Nations. The part played by the Brazilian delegation in this Assembly was again a passive one.

[1] *Records of the Third Assembly, Plenary Meetings*, p. 383.

The delegation to the Fifth Assembly consisted of the two ranking members of the Brazilian Permanent Delegation to the League of Nations, Senhores Mello-Franco, ambassador to the League, and Castello Branco-Clark, deputy minister, together with Raul Fernandes, who had been very valuable in the first two Assemblies, and now became prominent in the discussion of the First Committee relating to the pacific settlement of disputes. Brazil had urged in preceding Assemblies its special position in regard to the question of disarmament. In the Fifth Assembly special stress was laid upon this proposition by Senhor Castello Branco-Clark in the Third Committee.[1]

Senhor de Mello-Franco spoke before the Assembly regarding reduction of armaments and the treaty of mutual guaranty. Speaking of the draft treaty he said:[2]

> An attempt was made to devise some organic form for this mutual assistance, and the obligation to assist a state in the event of attack was, in principle, restricted to other states in the same continent. This restriction, which would have left Australia without assistance, would also have rendered the treaty inoperative as far as American states are concerned. This becomes strikingly evident when we remember that the United States do not belong to the League.
>
> Moreover, the American countries that are Members of the League are not armed, and would in the event of aggression be unable to give any assistance to the country attacked, whoever the aggressor might be.

He pointed out that it is practically impossible for one American state to give assistance to another because of the lack of military and naval force, the great distances between the nations and the topography of the continent. Speaking of the Gondra treaty which had been signed at the Fifth International Conference of American States at Santiago, he said: "This treaty, which was ratified by several other states, including the United States, really

[1] *Records of the Fifth Assembly, Minutes of the Third Committee*, p. 69 (*Official Journal*, Spec. Sup. No. 26).

[2] *Ibid., Plenary Meetings*, p. 72 (*Official Journal*, Spec. Sup. No. 23).

renders it needless for the American states to adhere to a treaty of mutual guaranty as a protection against the danger of an act of aggression in that continent on the part of an American country."

Senhor Barboza Carneiro was again an expert attached to the delegation and was prominent in the discussions of the Fourth Committee, before which he urged that Latin Americans should have precedence for appointments in the Secretariat in view of the fact that Latin America was inadequately represented on the permanent staff.[1]

The same delegation represented Brazil at the Sixth Assembly. Once again Brazil noted the peculiar position of the American nations and pointed out anew that regional pacts of security were of little or no concern to them but that intercontinental agreements were to the American states the means upon which peace depends. This point of view was presented before the plenary Assembly by Senhor Fernandes and before the Third Committee by Senhor Castello Branco-Clark. The latter pointed out that the A B C powers — the most powerful of the Latin American nations — possessed smaller armaments than even the least armed European groups. Senhor Fernandes asserted of the American states:[2]

> We have no concern with regional pacts of security, for the peace of our continent is based upon unshakable moral foundations, and is the outcome not of exceptional political foresight, but of the geographical and economic causes which mould our history. On the other hand, we have urgent need of intercontinental pacts, for there is a constantly increasing influx of foreign labor and foreign capital. Both are coming, or have already come, from populous and wealthy regions — largely from Europe, and, to an extent which may become very considerable, from the Far East.
>
> Any international disputes in which we may be concerned will therefore be the outcome of these intercontinental relations and will, by reason of their very origin, be legal rather than political in

[1] *Records of the Fifth Assembly, Minutes of the Fourth Committee*, p. 34 (*Official Journal*, Spec. Sup. No. 27).

[2] *Records of the Sixth Assembly, Plenary Meetings*, p. 83 (*Official Journal*, Spec. Sup. No. 33).

character. Our security thus requires that such legal disputes should be settled by judicial means, either by compulsory arbitration or, preferably, through the Hague Court. . . .

It is only too obvious that in the system of regional pacts room can hardly be found for the intercontinental agreements upon which our peace depends. There is, of course, an indirect way out of the difficulty — a means we employed before the existence of the League; I refer to partial arbitration treaties. But these coventions are independent of the League and do not include all the guaranties given under the Covenant.

Brazil favored the conclusion of special agreements for the limitation of armaments within the general organization of the League, and such other agreements between the parties as would grant additional general guaranties against any act of aggression. Consequently, agreements for limiting armament together with a general system of guaranties in the spirit of the Covenant formed the common aim of South American countries.

One of the most important controversies with which Brazil was connected in the League of Nations was that which related to the admission of Germany as a permanent member of the Council. Germany requested the attitude of the Council members regarding a permanent seat for Germany in a note sent to the Members of the League Council in September, 1924. Brazil replied December 1, 1924, with a note which contained the following:[1]

The Brazilian Government is of opinion, however, that the concrete questions arising out of the desires expressed by Germany are such as can not be dealt with by individual Governments as between themselves; they should rather be stated and discussed as a whole by the Members of the League and within the League in order that the various aspects of these questions and the views of the other Members should be fully made known. The German Government may be sure, however, that we shall examine impartially and in a conciliatory spirit the desires it expresses in its memorandum dated September 29, 1924, and that we are resolved to find satisfactory solutions for all questions and all just claims, without prejudice to

[1] Seventh Yearbook of the League of Nations (World Peace Foundation, Boston, 1927), p. 145.

the engagements undertaken by Brazil and to the true doctrine of international law, so far as the latter is applicable in each individual case.

This is not the place to discuss the difficulties which preceded the entry of Germany into the League. Suffice it to say that there was evidence of an understanding which grew out of the Locarno meetings, that France would support the claim of Poland for a permanent seat on the Council when Germany was admitted. An assurance had been made by Great Britain to support the renewal of Spain's claim for a permanent seat "under suitable circumstances." Brazil, lacking the support of any large state, renewed its claim to a permanent seat largely on the grounds of continental interests. Chile had proposed this at the Fourth Assembly in 1923.[1] There is little question that Brazil felt it was a duty to maintain the rights of the American continent and to claim to be the logical heir to the place which the United States had renounced.

Brazil may have had an exalted opinion of its position and may have misjudged the support of the remaining members of the American family of nations for the demand for larger representation on the Council. Brazil probably erred when it made its own claim for a permanent seat an essential condition of that adequate representation.

Brazil pointed to the lack of permanent representation of America on the Council and stressed the point that the absence of the United States gave a special importance to its own position. The peculiar territorial position of Brazil was emphasized. It touches every South American country except Chile and Ecuador and is the largest and most populated country of Latin America. It is the only Portuguese country on the continent and if its nonpermanent seat went to another country,[2] Portuguese America would not be represented. This argument undoubtedly reflected the feeling which exists between Spanish and

[1] See *infra*, p. 86.

[2] In practice two Latin American Members were then represented on the Council.

Portuguese America. Brazil has consistently fought for the "principle of equality" of representation of states in international bodies. In 1907 at the Second Hague Peace Conference Ruy Barbosa led the attack upon every plan for the establishment of a court of arbitral justice upon any other basis than the absolute "equality of states." In 1919 its delegate had advocated the principle in the commission which drafted the Covenant, and now, with six years of experience and under changed conditions, Brazil once again entered the plea.

The meeting of the Council and the Extraordinary Session of the Assembly in March, 1926, led to long and arduous "Locarno conversations" in an effort to solve the problem raised by the claims of Germany and others to be permanent members of the Council. These conversations were held outside of the regular Council meetings and were private. There is evidence, however, that the claims of Poland, to which Briand was especially sympathetic, and the claim of Spain, toward which Great Britain was cordial, were given the chief consideration. Locarno statesmen were the principal persons in the League Council and Assembly and to them, the European problem was all important. The Locarno agreements had to be carried out even at the expense of other more or less justified claims.

As Brazil had a voice on the Council and hence could block any compromise, its attitude was of course reckoned with, but it does not appear that any serious efforts were made to reconcile its claim. This might be gathered from the press reports and from Senhor de Mello-Franco's address before the Assembly. The efforts of the Council statesmen were chiefly directed toward inducing him to acquiesce in their formula and to accept their solution. The plan formulated provided that Sweden should resign its place on the Council to give place for the Netherlands, thus maintaining the influence of northern Europe and enabling a friend of Germany to be on the Council. Czechoslovakia would relinquish its seat, which would be filled by the election of Poland. Spain and Brazil were already on the

Council and hence it was thought that they would be satisfied.

Brazil declined to forego insistence on a permanent seat, demanding a larger American representation on the Council. This position was logically strong, but the claim was not rested there. Brazil assumed that since it was an "integral part of America," it had an "equal" right with the other American countries to formulate this claim; the logical consequence of a community of interests, as of an abstract condominium, being that a joint owner may defend joint property as if it were his own, *re sua propria agitur.* Brazil was confident that the American states would support its claim. But its rôle of self-appointed spokesman and defender of America did not appeal to them. They all favored larger American representation on the Council and would probably have favored the elimination of permanent seats altogether, but they would not go with Brazil in its claim to be the leader of America and as such holder of the special privilege of a permanent seat on the Council.

The Latin American countries manifested opposition to a permanent seat for Brazil on the ground that it would be contrary to the principle of equality which had always been maintained among the American nations. They were agreed that three Council states should be elected from the American Members but without any restriction or provision that any one nation or group should always be represented. They were opposed to any plan which would grant a special position to any American nation. The delegations at the special session from Chile, Colombia, Cuba, Guatemala, Nicaragua, Paraguay, Dominican Republic, Salvador, Uruguay and Venezuela met on March 17 to exchange views. After this meeting they sent the following note to the Brazilian delegation:[1]

> The American delegations . . . having exchanged their views in a spirit of the utmost cordiality and solidarity, and, having heard the information which M. Guani and M. de Mello-Franco, members

[1] *Records of Special Session of Assembly, March, 1926, Plenary Meetings, and Meetings of Committees*, p. 29 (*Official Journal*, Spec. Sup. No. 42).

of the Council, have been good enough to give them, have decided as follows:

The American delegations, conscious of the gravity of the League's present situation, regardful of the interests of world peace, and realizing how essential it is that the American states should exert their influence to bring about the reconciliation of the peoples of Europe, desire to express to His Excellency M. de Mello-Franco the hope that Brazil will take such steps as she may consider most opportune to bring about unanimity in the Council and so remove the difficulties which stand in the way of its decision.

Senhor de Mello-Franco, the delegate of Brazil, presented his Government's position at the third plenary meeting of the Assembly on Wednesday March 17, 1926.[1] He said that Brazilians had been in accord with the principles enunciated in their Government's reply to the German memorandum and noted that Brazil had taken no part in the difficult work of negotiating a solution of the problem which would be acceptable to the various political interests at stake. Brazil preferred, he said, to avoid compromising the fundamental principles of League organization which had been laid down in its reply of December 1, 1924. "We still maintain", he said, "that the reform of the present constitution of the Council is not a matter which concerns certain European states only; we think that this question is of such vital importance to the League that it can not be solved by means of special agreements between individual Members, but that every state without exception must be heard in order that, before a solution is adopted, the views of all may be known.

These principles, which we are proud to have championed, are based on the foundations of the Covenant itself and on the juridical equality of sovereign states."[2] He emphasized that the work of Locarno should be brought within the framework of the League and not the League within the political framework of Locarno. He reaffirmed the Brazilian contention that in virtue of their right as an

[1] *Records of Special Session of Assembly, March, 1926, Plenary Meetings*, p. 25.
[2] *Ibid.*, p. 25.

American nation, they claimed that America should be represented more equitably and more fully on the Council.

The Brazilian instructions, however, were "irrevocable and final" and consequently the veto of Brazil on the Council prevented the plan from being adopted and Germany, of course, refused to be admitted without being given a permanent seat. Thus, the intransigence of Brazil led to the adjournment of the Assembly without having fulfilled the purpose for which it was called. Brazil was criticized severely for insisting upon a permanent seat on the basis of national aspirations for the leadership of Latin America.

Elizen F. de Montarroyos represented Brazil on the Committee for the Composition of the Council which drafted the plan for reallocating Council seats. This was submitted to the Council June 10, 1926.

The Brazilian representative on the same day presented to the Council [1] his Government's views in regard to the composition of the Council. He said that Brazil had defended the thesis of equality of treatment for great and small states in regard to the composition of the Council before the Commission of the Peace Conference in 1919. Certain factors had convinced Brazil that it was necessary to proceed to a reorganization of the Council based upon the principle of equality. These factors were: "The international political evolution which had not ceased as a consequence of the creation of the League of Nations; the development of the legal construction of the Covenant; the gradual substitution of a mentality arising from a state of war by another mentality more consonant with the state of peace; the abandonment of the militarist conception of a great power . . . ; the increase in the number of the Members of the League of Nations."

For these reasons Brazil had again taken up the thesis which it had defended at the Peace Conference. Then he said:

[1] *Official Journal*, VII, p. 887–889.

If there are problems, which more particularly concern Europe and in the solution of which the states of the Continent of Europe have a common interest, it can not be denied that there exist also in America special rules of continental policy, a special organization composed of the American states, a closer cooperation of the interests which they have in common, a union of sister republics, assured by more intimate bonds than those of a mere concert between powers, and, lastly, a doctrine the existence of which has been recognized by Art. 21 of the Covenant.

Without in any way opposing the idea of the unity and universality of international law, it is necessary not to lose sight of the fact that, politically, the separation of the continents is a reality, and that there exist, in respect of the conditions proper to each of them, legal rules having a character which is more continental than universal.

He pointed out that Europe was permanently represented on the Council by three states and would soon have four; Asia with five states in the League had a permanent representative, while 17 Ibero-American states had none. He continued:

Brazil has never claimed the right to represent the other American states on the Council, nor would such a representation be possible.

On the other hand, it is impossible to dispute the right of Brazil to formulate a claim founded on continental considerations, as this right springs from the community of interests, from which it follows that each of the associated parties is at liberty to ask for the necessary legal protection of the above interests. . . .

It is necessary, therefore, to sweep away all ambiguities and to affirm categorically that the object of the Brazilian claim was essentially continental in character, based on the *co-imperium* of the territory of which Brazil is a portion and on the indissolubility of certain interests, without there being any question of a political representation of the other states of the continent.

Senhor de Mello-Franco concluded by renouncing his place on the Council as representative of Brazil.[1] Sr. Guani of Uruguay expressed his regret and said that,

[1] *Official Journal*, VII, 1926, p. 887–889.

although Brazil and Uruguay differed as regards the question of the permanent seats, they were in accord as to the demand that the American Continent should have more equitable representation on the Council.

The Brazilian resignation of the Council seat was not specifically acted upon and on June 12, 1926, the telegram of withdrawal from the League was received by the Secretary General.[1] The Seventh Assembly elected Chile, Colombia and Salvador as the three American states on the Council.

Since withdrawal, Brazil has continued to cooperate in some respects somewhat similar to the way Argentina and the United States have been working with the various League activities. President Washington Luis said on May 3, 1927, that "the withdrawal of Brazil from the League did not signify lack of appreciation for the great ends which that international institution pursues nor disinterestedness in the work which it has realized", and accepted the invitation to attend the International Economic Conference opening May 4, 1927.[2]

The attitude of Brazil regarding the Council crisis was not merely a question of *amour propre* but was also a symptom of the increasing reluctance of non-European states to allow European "powers" to dominate the League and to practically monopolize the permanent seats. The veto of Brazil and its subsequent notification of intention to withdraw was in part a challenge both to European dominance in the League and to the attitude which still persists that Europe is the exclusive champion of civilization, culture, influence, and power.

The reorganization of the Council has not materially changed the situation. It met the desires of the other South American republics but it did not satisfy the demands of Brazil.

At the March, 1928, meeting of the Council, Sr. Urrutia (Colombia), the president of the Council, drew the attention

[1] *Official Journal*, VII, 1926, p. 1004.

[2] *La Nacion*, May 4, 1927, p. 2.

of his colleagues to the fact that Brazil and Spain would cease to be Members in June and September respectively and proposed that the Council invite those countries to continue as Members. The Council adopted a resolution on March 9 authorizing the president to communicate with these two Governments.[1]

The note sent by Sr. Urrutia as president of the Council recalled the rôle which Brazil had played in the League of Nations and in the movement for international peace and cooperation. He noted the problems of a world character which were being dealt with by the League, such as those relating to world economic organization, those of security and the reduction and limitation of armaments and then asked: "Will not Brazil come to the League's aid alike with her idealism and her practical wisdom? Will she discontinue her cooperation in all the other work — technical, intellectual and social — in which she has hitherto taken part as a Member of the League?"[2]

Sr. Urrutia noted that, in view of the fact that he himself was a citizen of one of those countries of the New World which have done so much and may yet do so much to realize the great ideal of international organization and peace, "he felt bound to associate himself with the views of the Council, with especial sympathy."

Spain recalled its notification of withdrawal as a result of this invitation, and its claim for a permanent seat was substantially met through the new provision concerning eligibility for re-election.

The reply of the Government of Brazil to the invitation of the Council was dated April 9, 1928. It said in part:[3]

On June 10 and 12, 1926, Brazil announced her intention of withdrawing from the League of Nations, setting forth fully the grounds for her action. The facts which preceded that decision of the Brazilian Government are well known. The widest publicity was given

[1] *Official Journal*, IX, p. 405.
[2] *Ibid.*, p. 584.
[3] *Ibid.*, p. 778.

to the occurrence in its diverse phases, and to all commentaries aroused by it.

The Government now responsible for the policy of Brazil, duly considering the subject, both from the political and from the moral standpoint, reviewing all the documents of the case, with the sole purpose of being loyal to the duties and responsibilities of this country, finds no determining factor for altering, under such delicate circumstances, a situation which had already been clearly defined, since the contingencies which brought it about are nowise changed.

If, therefore, collaboration with the League of Nations implies permanence as a Member thereof, the Brazilian Government is the first to regret that the present circumstances should not allow such collaboration.

It would appear to me, however, that it is not only by occupying a seat in the Assembly or in the Council that a country can collaborate with the League of Nations. Such countries collaborate as recognize its services to civilization and to humanity. Countries that do honor to the great organizations created by the League of Nations, amongst which the Permanent Court of International Justice stands foremost, and join in the conferences through which the League of Nations strives for universal welfare by working out problems of general interest, rightly consider themselves collaborators. Lastly, it is clear that support is also brought to the League of Nations by those countries that preach and practice, in whatever part of the world they may live, to the utmost of their power the true policy of preserving peace, in no matter what emergency, by the employment of juridical solutions, by their disinterestedness, by their amity and by their spirit of justice and of concord.

Collaboration being thus understood, I beg Your Excellency and the Council to consider my country one of the most devoted cooperators of the League of Nations, and if, in the future, Brazil finds it possible to return thereto, she will only have ground for rejoicing both at the honor of being once more a Member and at the facts in consequence of which her return to that great institution will have been made possible. Brazil sincerely wishes that the blessings of mankind may be showered ever increasingly upon the League of Nations.

Senhor Barbosa Lima Sabrainko in an editorial of the Jornal do Brasil, March 13, 1926, said that "the sentiment of national dignity and justice requires [Brazil] to assume

an attitude of protest. If the national dignity will require our withdrawal from the League, the Brazilian nation will applaud the attitude since it will free us from a European organization where there is little use made of the American nations. About the only use made of the American nations is on the list of contributions."[1]

All official connections with the League were severed on June 12, 1928, when Brazil allowed its withdrawal to become effective. That event removed from the League family the most populous and the largest Latin American nation. It was also the second nation definitely to withdraw from the Geneva organization, the first having likewise been a Latin American nation, — Costa Rica.

Some leading statesmen in Brazil favor a return to the League. In the opinion of certain influential Brazilians, the tactics employed in the Council crisis were diplomatically unfortunate and its withdrawal creates greater disadvantages to Brazil than to the League. Time alone can determine this and furnish the opportunity for Brazil to gracefully retrace its steps if it should so desire.

Chile

Chile was ably represented at the First Assembly of the League by Antonio Huneeus Gana, and M. Manuel Rivas-Vicuña. Señor Huneeus was an outstanding Spanish American delegate at the First Assembly and was elected chairman of the Fifth Committee, which dealt with the admission of new states. He was therefore a vice-president *ex-officio* of the Assembly and a member of the General Committee. During the course of the Assembly he favored the adoption of Spanish as an official language of the League. In considering the application of Costa Rica for admission Señor Huneeus expressed the sincere desire of Chile to see all of the Latin American states Members of the League of Nations.[2]

[1] *Jornal do Brasil*, Rio de Janeiro, March 13, 1926.

[2] *Records of the First Assembly, Plenary Meetings*, p. 582.

In this First Assembly one of the main reasons for Chile's adherence was demonstrated. This reason was recently stated to the present writer by a prominent Chilean in this fashion: "Chile must be there to protect her interests, if and when they are brought up." Early in the session the Bolivian and Peruvian delegations requested that the treaties of 1883 and 1904 with Chile be revised by the League of Nations. Thus, as Luis Barros Borgoño says, "the Problem of the Pacific was for a few hours the enforced topic for discussion at that Assembly."[1]

The Peruvian minister at Paris, M. H. Cornejo, in a letter, November 1, 1920, to the Secretary-General of the League requested to have this matter placed on the agenda of the Assembly. This letter was in part as follows:[2]

. . . Peru requests the Assembly . . . to reconsider and revise the treaty of October 20, 1883, between Chile and Peru.

In making this request Peru invokes Arts. 15 and 19 of the treaty of Versailles.

The treaty of 1883, which took from Peru the Department of Tarapaca, was imposed and maintained by force, and has not even been carried out by Chile as regards its essential provisions.

This agreement provided that the occupation of the provinces of Tacna and Arica was to be temporary and was to terminate, subject to a plebiscite, in 1893. Since that time Chile has remained in occupation of this territory by force of arms, from time to time expelling Peruvians. . . .

Peru submits this request in agreement with Bolivia, the interest of their two countries being bound together by the history and circumstance of this question. . . .

Numerous facts show that the agreement which Peru is desirous of having reconsidered and amended involves a serious danger of war. The most recent of these events are the forcible expulsion of Peruvians from the conquered and the occupied provinces and the mobilization of the Chilean army, which is concentrated on the frontiers of Peru and Bolivia.

[1] L. Barros Borgoño, *The Problem of the Pacific and the New Policies of Bolivia* (Baltimore, 1924), p. 3.

[2] *Records of the First Assembly, Plenary Meetings*, p. 596.

Peru wishes to reserve the right to place before the Assembly legal evidence in support of its claim.

I would therefore beg you to place this matter upon the agenda of the Assembly, in order that the procedure laid down by the treaty of Versailles may be followed.

The Bolivian delegation in a letter to the Secretary-General of even date (November 1, 1920) likewise requested that the matter be placed on the agenda of the Assembly. In this letter the delegates announced that:[1]

Bolivia invokes Art. 19 of the treaty of Versailles with a view of obtaining from the League of Nations the revision of the treaty of peace signed between Bolivia and Chile on October 20, 1904.

In support of this request, Bolivia, while reserving the rights to offer proofs and declarations at a suitable moment, would submit the following facts:

(1) That the treaty was imposed upon her by force;

(2) Failure to carry out certain fundamental articles of the treaty which aimed at securing peace, for which failure Chile was to blame;

(3) This state of affairs involves a permanent menace of war. This may be proved by the present mobilization of large army corps, which is being carried out by Chile on the Bolivian frontier, in spite of the fact that these countries are at peace;

(4) As a result of the treaty of 1904, Bolivia is now entirely shut in and deprived of all access to the sea.

We wish to state here that we are now acting in full agreement with Peru, with which country Bolivia considers herself bound in this respect by historical and political ties, and by common interests arising from the war and from their alliance of 1879.

Art. 19 of the Covenant, above referred to, provides that "the Assembly may from time to time advise the reconsideration by the Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world."

At the second plenary meeting of the First Assembly, November 15, 1920, the president noted the following

[1] *Records of the First Assembly, Plenary Meetings*, p. 595.

items which had been sent in after October 15, for consideration by the Assembly:

(1) The Peruvian request for the revision of the treaty between Chile and Peru of 1883;

(2) Request of the Bolivian Government for the revision of the treaty between Bolivia and Chile of 1904.

The president remarked that he "should mention as regards the requests of the Peruvian Government and the Bolivian Government that the delegates of these two Governments have informed us that they wish first of all to examine the question between themselves. The discussion of this question by the Assembly should therefore be provisionally adjourned."[1]

It is well known that this action of Peru and Bolivia in not pressing their claims was the result of pressure and pleadings by other delegates to the Assembly. The League had just been born and it was not yet sure of itself or its possibilities. Then, too, the opposition in the United States toward the League and its possible intervention in America was not conducive to any positive policy of attacking American problems, and especially a question which was loaded with so much political dynamite. And so the story goes that statesmen walked the corridors of the League Secretariat at Geneva with the delegates of Peru and Bolivia begging them not to press the issue.

Peru by letter of December 2, 1920, to the Secretary-General, withdrew the request which it had made on November 1.[2] The president of the Assembly at the 26th plenary meeting December 16, 1920, acknowledged the receipt of a communication from the Bolivian delegation "that in view of the fact that the close of the Assembly is very near, and that it is impossible to go into so very delicate a problem here, it provisionally reserves the question raised in its letter of November 1 and requests that this question should be placed on the agenda of the next session of the Assembly."

[1] *Records of the First Assembly, Plenary Meetings*, p. 53.

[2] *Ibid.*, p. 580.

The president, in accordance with Art. 4, par. (e), of the Rules of Procedure, requested the Secretary-General to place this question on the agenda of the next session of the Assembly.[1]

Señor Huneeus for Chile at once protested against this action as being in any way an interpretation of the competency of the Assembly to deal with the dispute between Bolivia and Chile and stated that Chile considered "that neither the League of Nations nor the Assembly could interfere in these affairs."

The *Monthly Summary* of the Information Section of the Secretariat in reporting the provisional agenda for the Second Assembly defined the "request for mediation by Bolivia in its dispute with Chile" as one of the "important questions which the Members of the League will be called upon to deliberate."[2] No mention was made of this paragraph in the agenda; "Chile in letters dated December 17, 19 and 28, 1920, requested that notification should be made of her opposition, by moving the previous question, to the proposal of Bolivia to include this item in the agenda of the Assembly."[3] The Chilean delegation to the League of Nations in a letter dated June 13, 1921, protested against this omission, and in consequence the Secretary-General caused the full text of the agenda item to be inserted in the *Monthly Summary*.

The Chilean letter lodged "a formal protest against even the insertion of this matter in the agenda, on the ground that it was not within the competency of the League of Nations. Thus, in our opinion, the Members of the League will not be called upon to discuss this question; and, further, the request made is not for mediation but for the insertion of a question in the agenda." In reply to the Chilean objection to the insertion of this question on the agenda for the Second Assembly the

[1] *Records of the First Assembly, Plenary Meetings*, p. 580.

[2] *Monthly Summary*, 1921, p. 13.

[3] *Ibid.*, p. 69; *Records of the Second Assembly, Plenary Meetings*, p. 56.

Peruvian Government in its letter of July 29, 1921, to the Secretary-General said: [1]

> The question submitted by the Bolivian delegation to the Assembly is not one of placing a matter on the agenda, since it is sufficient for a delegate to propose a question for it to be immediately placed on the agenda of the Assembly, as is laid down in Art. 4, par. (e), of the Rules of Procedure.
>
> At the sitting referred to, the Chilean delegation raised the previous question with regard to competency and subsequently even declared its intention of opposing the placing of the question on the agenda of the next or of any other Assembly. The situation was made quite clear by M. Hymans in his notes of December 15, 1920, to the Bolivian delegation, and of December 18 to the Chilean delegation.
>
> It is therefore evident that the Bolivian request as formulated, and also the opposition of Chile, must form the subject of discussion by the Assembly, whose duty it will be to take a decision in the matter. Meanwhile, it is desirable that the precise terms of the requests of the two parties should be retained in their present form.

Thus the Tacna and Arica problem appeared on the agenda for the Second Assembly of the League of Nations. Carlos V. Aramayo of Bolivia noted before the fifth plenary meeting of the Second Assembly, September 7, 1921, that in a "note addressed to the Secretary-General on November 6 the Bolivian delegation pointed out that its object was rather to bring about a general investigation of the situation, and that the revision of the treaty was but a means to that end. . . . To-day the people of Bolivia look to the League of Nations not for redress . . . but at least for a measure of justice. There can be no hope of lasting peace on the continent of South America while the situation of to-day is allowed to endure."[2] He goes on to assert that a denial of the competency of the Assembly to deal with the matter "would amount to a negation of the League's very reason for existence."

[1] Document A. 11. 1921.

[2] *Records of the Second Assembly, Plenary Meetings*, p. 49.

Demetrio Canelas, another Bolivian delegate, in an address before the Assembly said: "In reality, Chile refuses to recognize any intervention on the part of the League of Nations in the affairs of the New World. It is thus not only Bolivia's request which is at issue, but the whole question of what the sphere of the League of Nations should be." He argued for the submission of the matter to a committee of examination and concluded: "Should we find, in this case, when we are only asking for the application of the Rules of Procedure, that the doors of the Assembly are closed against us, we shall be forced to the conclusion that we entered the League of Nations relying on false illusions."[1]

Chile opposed energetically and very ably the revision of the treaty of 1904 by the League. Great credit is due to the Chilean delegation and especially to Agustín Edwards for the able argument presented September 7, 1921, before the Assembly. Señor Edwards questioned the competency of the League "to revise treaties, and especially treaties of peace."[2] He declared that the request was "in flagrant contradiction to the first principles of the law of nations and with the essential objects, the letter and the spirit of the Covenant of the League of Nations. The international political and legal system upon which the relations of all civilized people are based . . . would utterly collapse." He analyzed the meaning of Art. 19 of the Covenant.[3] If the grounds of Bolivia were well founded, he said, "the League would be faced with the task of remaking the map of the world."

The president proposed that further discussion of the matter be postponed to a later meeting.

The question of the relevancy of Art. 19 of the Covenant was taken up at the 22d plenary meeting, September 28, 1921, when a special committee of jurists, appointed by the General Committee of the Assembly, made its report.

[1] *Records of the Second Assembly, Plenary Meetings*, p. 50, 52.

[2] *Ibid.*, p. 45–49.

[3] On this point see also the legal authorities in Borgoño, *op. cit.*

This committee consisted of M. Vittorio Scialoja (Italy), M. Urrutia (Colombia) and M. Manuel de Peralta (Costa Rica).[1] The report was favorable to Chile and decided [2] that, in its present form,

> The request of Bolivia is not in order, because the Assembly of the League of Nations can not of itself modify any treaty, the modification of treaties lying solely within the competence of the contracting states.

Following a statement by the Chilean delegate, Sr. Aramayo, the Bolivian delegate, stated that the petition would be presented anew at a later date. Sr. Aramayo then read a note in which it was declared that:[3]

> The Bolivian delegation regrets that the committee thought fit to express an opinion on the question whether this request was in order or not, a question which had not been submitted to it, more especially as the committee, taking into account certain expressions of doubtful meaning in the request of November 1, 1920, does not seem to have paid attention to the supplementary documents, viz., the letter of November 6, 1920, and the memorandum of September 12, 1921, in which the true meaning of the Bolivian request was set forth.
>
> It was clear from these documents that the Bolivian Government had no intention of asking the League of Nations to proceed, of itself, to an immediate revision of the treaty of 1904, but that it simply desired that the League should ascertain, by means of a searching inquiry, whether the situation justified an invitation to the two states to proceed to a further consideration of the treaty for reasons laid down by the Covenant itself. . . .

Sr. Aramayo, referring to the Chilean statement of readiness to open direct negotiations with Bolivia, said: "If Bolivia agreed to resume the conversations which had not yet been able to achieve results, it would only be under the aegis and moral sanction of a high tribunal such as that represented by the League of Nations."

[1] *Records of the Second Assembly, Plenary Meetings*, p. 261.
[2] *Ibid.*, p. 466.
[3] *Ibid.*, p. 468.

Lord Balfour of the British Empire expressed the sentiment of the League in this matter when he said, in referring to the possible repetition of the Bolivian demand, that: "We may surely all hope, and hope with profound confidence, that that necessity [of renewing an appeal to the League of Nations] will never again arise." The president closed the subject by recording that "the dispute can no longer be discussed here" since the Bolivian request was withdrawn. All would follow the joint efforts of the parties to settle the question.

With that the problem of the Pacific was considered a closed incident so far as the League was concerned. Chile, however, realized that there was always a possibility that the question might be put upon the table at any time inasmuch as every Member has, as Mr. Balfour said, an inalienable right to present an appeal to the League for consideration.[1] Thus Chile, having entered the institution in a rather hasty manner, found itself at the very outset called upon to defend itself. True, it received a favorable decision but the incident revealed the danger of a different decision at another time, under different circumstances.

Since 1921 Chile has remained in the League and has continued to consistently cooperate through it. One influential Chilean expressed the opinion to the writer that he believed that the League had been pampering them. At any rate, Chile has been quite fortunate in its relations with the Geneva institution, and there has been no reason, which would suggest the idea of a withdrawal or any excuse which would justify a retirement.

Chile has been represented at Assemblies of the League by its diplomatic agents accredited to various European Governments, although they have been supplemented at times by persons outside of the diplomatic service.

Agustín Edwards, envoy extraordinary and minister plenipotentiary in London and former President of the

[1] Through the good offices and suggestions of the United States, diplomatic relations were resumed between Peru and Chile in 1928 and a settlement of this long standing dispute was effected by direct negotiations. The settlement was announced by President Hoover in May, 1929.

republic, headed the Chilean delegation to the Second, Third and Fourth Assemblies while the Chilean ministers at Bern and Vienna were the other delegates. Alejandro Alvarez, the secretary of the American Institute of International Law, was associated with the delegation to the Second Assembly. Señor Edwards in the Second Assembly was elected chairman of the Fourth Committee (Finance and Internal Organization) and was consequently ex-officio vice president of the Assembly. In the First Committee he voiced the unanimous opinion of Latin America when he urged a larger representation for America on the Council of the League.[1]

Manuel Rivas-Vicuña occupied himself in the Second Committee with questions of the Health Organization. Before the Third Committee, which considered the problem of armaments, he pointed out that Chile was one of the four nations that had ratified the convention of Saint Germain-en-Laye relative to the manufacture of and traffic in arms and munitions, and brought to the attention of the committee the agreement which Chile had made with Argentina, May 28, 1902, concerning the limitation of armaments.[2] He outlined for this committee the attitude which his Government was to pursue regarding the question of disarmament. He advocated regional agreements on armaments and suggested "that an attempt might be made to confine these agreements to certain parts of the world" and thus "form in the world large tranquil zones."[3] Thus he urged that the idea of regional agreements was the most feasible and practical solution of the intricate and difficult problem of armament. This was different from the Brazilian attitude which we have already considered.

Sr. Alvarez in the First Committee urged a complete revision of the Covenant.[4] Such an attempt to redraft the whole structure was deemed to be inadvisable and

[1] *Records of the Second Assembly, Meetings of the Committees*, I, p. 120.

[2] See World Peace Foundation, IV, No. 5, p. 404.

[3] *Records of the Second Assembly, Meetings of the Committees*, I, p. 402.

[4] *Ibid.*, p. 114.

premature, and the proposal was reserved for the next Assembly, where it did not reach the agenda. From the records of the meeting and his writings before and after the 1921 Assembly, one can reasonably assume that his views were personal rather than part of the official program of the delegation.

When the Council and Assembly came to elect the judges of the Permanent Court of International Justice, Sr. Alvarez was a nominee for that position. By the voting in the Assembly, he was chosen by the requisite absolute majority first for judge and then for deputy judge. The Council, however, had not selected him. By the concurrent ballotings of the Assembly and Council 11 judges and three deputy judges were chosen, there being one deputy judge to select. The Assembly voted for Sr. Alvarez and the Council for Baron Descamp (Belgian). Consequently a joint conference was required in order to arrive at an agreement. This committee was composed of three members of the Assembly and three members of the Council, each group elected by their respective bodies. The Assembly selected Motta (Switzerland), Van Swinderen (Netherlands), Zahle (Denmark), while the Council appointed Hymans (Belgium), De León (Spain) and Koo (China). As a result of this joint conference M. Beichmann (Norway) finally was elected instead of either Sr. Alvarez or Baron Descamps.[1] The consistent majority which Sr. Alvarez received in the Assembly balloting was attributable in part to the votes of Latin American states.

The next year (1922) Sr. Edwards, president of the Chilean delegation, was elected president of the Assembly. Mere observation from then on has been replaced by ardent cooperation. The position and prestige of Chile had been raised in the family of nations, and to the Chileans the selection of their first delegate to the high position of presidency of the world congress was not only a great honor but a recognition of the position which Chile holds

[1] *Records of the Second Assembly, Plenary Meetings*, p. 251 *ff.*, 272, 281.

in the world. In referring to the distinction which the Assembly had bestowed upon the American nations by electing him to that high position, Sr. Edwards, in accepting the honor, said: "The American nations . . . can not but feel lively satisfaction at receiving from the Assembly a proof that they are regarded as an essential factor in the maintenance of international peace and justice and in shaping the destinies of the world."[1]

In 1923 the International American Conference which met at Santiago refused to create an American League of Nations. By this time Chile was not as strong an advocate of an American League as it had apparently been in the early days of 1921. Chile expressed through Sr. Edwards, its chief delegate, the position that the American institution, whatever it might be, should not be in any way opposed to the League.

Chile, enjoying an enhanced prestige, entered more actively into the deliberations of the Fourth Assembly than during any previous one. Sr. Edwards again headed the delegation. Before both the Assembly and the Third Committee of the Fourth Assembly he developed the Chilean thesis regarding armament with marked ability and unusual clarity. He pointed out that the problem of disarmament in America is entirely different from what it is in Europe. On September 7, 1923, he noted before the Third Committee that "in Europe the problem of the reduction of armaments is a political and an economic one, whereas in Latin America the economic outweighs the political aspect of the question." He drew a comparison between Spain and the A. B. C. group. In 1922, he said, Spain had spent £27,647,000 on naval and military armaments. In 1921 Argentina had spent £7,447,000, Brazil £5,215,000, and Chile £4,254,000, a total of £16,916,000. The three had spent only 60% of what Spain alone had appropriated for military purposes. In 1921 the 17 other Latin American countries had spent £26,498,000, making a total for all American Member States of only £43,414,960.

[1] *Records of the Third Assembly, Plenary Meetings*, p. 24.

The 20 countries of Latin America spent an amount approximately equal to the combined expenditure of the three Scandinavian countries and Spain, four neutral and comparatively unarmed countries. He indicated that the burden of armament per capita was four times as heavy in the case of the least armed countries of Europe as in that of the most fully armed countries of Latin America and pointed out, therefore, that the armament was not in proportion either to their territories, population, trade or resources.[1]

During the 1923 meetings there were many reflections from the Santiago Conference of American States. In a speech before the sixth plenary meeting of the Assembly September 12, 1923, Sr. Edwards indicated that the Santiago conference had accomplished little in regard to armament; in fact, it had nothing to accomplish. "The problem, as it presented itself to the American continent was not," he said, "as in Europe, one of special urgency; it resolved itself merely into the question of discovering means to prevent the competition of armaments from spreading to America. When the Chilean Government placed this question on the agenda of the Pan American Conference it had in mind, not so much a reduction of armaments, as the possibility that they might increase in the future."[2] He pointed out that 17 of the 20 republics were in fact disarmed and the three other states, although they had naval and military forces, had a policy essentially pacific. He called attention to the fact that Chile and Argentina had settled all of their international disputes by means of arbitration, while Brazil had practised arbitration since the beginning and had even embodied the principle in its Constitution. He reminded the Assembly that the situation aimed at by the treaty of mutual guaranty, which was then before the Third Committee of the League, was the establishment in Europe of what had been a fact in America for a century.

[1] *Records of the Fourth Assembly, Minutes of the Third Committee*, p. 13 (*Official Journal*, Spec. Sup. No. 16).

[2] *Ibid., Plenary Meetings*, p. 36 (*Official Journal*, Spec. Sup. No. 13).

The Chilean interpretation of the obligation under Art. 10 of the Covenant was brought out by Sr. Edwards during the discussion in the First Committee on the Canadian amendment. He urged that, "in order to decide what share each country should take in any action for the maintenance of the present territorial integrity and political independence of all Members of the League, it was essential to take account of the political and geographical situation of each. The Chilean view was that, without the approval of Parliament, the country never had been, and never would be, obliged to commit any act of war in fulfilment of the obligations imposed by Art. 10 in its present form; for it had never at any time been possible for Chile to contract an international obligation in contravention of her Constitution."[1]

Before the First Committee Chile again took up the Latin American contention for increased Latin American representation on the Council. A change proposed two years before had been supported by the Latin American and Canadian representatives. Chile suggested on September 25, 1923, that Brazil and Spain be given permanent seats on the Council and stressed the importance of rotation for the nonpermanent members.[2] To the objection of M. Politis that this would make the Council too large to function properly, Sr. Edwards replied that, although that objection might hold good so far as Europe was concerned, it did not apply to America, where the Administrative Council of the Pan American Union comprised 21 members and yet fulfilled its purpose admirably.[3]

Chile proposed at the tenth plenary meeting a resolution that the Assembly [4]

Invites the Governments of the States Members of the League to give favorable consideration, as regards travel by land or water and

[1] *Records of the Fourth Assembly, Minutes of the First Committee*, p. 13 (*Official Journal*, Spec. Sup. No. 14).

[2] *Ibid.*, p. 37.

[3] *Ibid.*, p. 39.

[4] *Ibid., Plenary Meetings*, p. 57.

passport and customs regulations, to the question of the facilities they can provide for those groups of Boy Scouts and Girl Guides which belong to a registered national Boy Scout Association of any state Member of the League, when such groups are traveling from the territory of one state Member to or through the territory of another state Member.

This was favorably reported by the Fifth Committee, of which Sr. Valdes-Mendeville of Chile was rapporteur, and was adopted by the Assembly.[1] At the next Assembly Belgium, Bulgaria, China, Czechoslovakia, Greece, Hungary and Italy reported that they were prepared to grant a reduction of railroad fares to Boy and Girl Scout groups by as much as 50%. No Latin American Government, however, had acted favorably regarding the proposal.

At the Sixth Assembly (1925) Chile was represented by Emilio Bello Codesido, Enrique Villegas and Elidoro Yañez — all eminent statesmen and diplomats. Two important proposals were presented by the Chilean delegates at this Assembly.

One related to a conference of press experts to consider means whereby the press of the world might cooperate in the work of disarmament and peace. This proposal may have been the outgrowth of the resolution of the Fifth Pan American Conference in 1923 providing for a Pan American Conference of Journalists, which was to meet in Washington the following April. Sr. Yañez stressed the importance of the unifying influence of the press as a guide to public opinion and its moral influence over Governments. His resolution invited the Council to convene a committee of experts of the press to insure more rapid and less costly transmission of news with a view to reducing risks of international misunderstandings.[2] This was adopted by the Assembly, September 25, 1925,[3] and resulted in an important Conference of journalists in 1927 which had far-reaching effects.

[1] *Records of the Fourth Assembly, Plenary Meetings*, p. 122.

[2] *Records of the Sixth Assembly, Plenary Meetings*, p. 90.

[3] *Ibid.*, p. 138.

The other Chilean proposal likewise concerned means of developing public opinion as the best and most practical method of bringing peace. This proposal invited the Council "to submit to careful consideration the replies already received by the Secretariat concerning the instruction of children and youth in the principles of peace and the ideals of the League of Nations, with a view to convening, if necessary, a conference of school teachers to study the best means for creating a spirit of world fraternity in schools."[1] It might be noted in this connection that the Fifth International American Conference had adopted a number of resolutions on education of which one called for a university conference and another suggested that the curricula of the primary schools include a course on "continental fraternity." The Educational Section of the Pan American Union had been devoted to this purpose for a number of years.

The Chilean proposal, together with similar ones presented by Haiti, Poland and Uruguay, was referred to the Committee on Intellectual Cooperation in order that it might prepare a program as to the best means of carrying out the proposition. Permanent coordination of such educational activities has resulted.

During the following years circumstances in the League were not as favorable to Chile as during 1923 to 1925. Although the ardor shown for the League by its plenipotentiaries did not cool, it did not prove interesting to the average Chilean. There was voiced occasionally a doubt as to the utility of the League to Chile, as in the Chilean Congress of 1926 when the advisability of expending 600,000 gold pesos annually on the League was questioned. The minister of foreign affairs assured the Legislature that he would endeavor to keep to a minimum the expenses for the League by selecting in so far as possible representatives who were in Europe to act as delegates to League meetings.

Chile had given its adherence to the League in a spirit of collaboration for betterment of the world. It was

[1] *Records of the Sixth Assembly, Plenary Meetings*, p. 395.

convinced that the League was a step in advance in the attempts to avoid war. Chile did not expect to play a predominant rôle in the League and hence did not consider the League relationship to involve a question of *amour propre*. Its chosen rôle was to lend every effort to the development of the League in conformity with American ideals without taking an uncompromising stand for a definite type of reorganization.

Chile has remained loyal to the idea of continentalism from the beginning. The Government in accepting the Covenant, March 19, 1919, affirmed "the principles that constitute American rights proclaimed in all of the Pan American Congresses." Sr. Huneeus, first Chilean delegate to the First Assembly, in an interview with the correspondent of *La Nación* November 24, 1920, said that: "We are animated by the proposition to proceed to the performance of our task, in accord with the other South American Governments . . . in the affairs which concern the politics and commerce of our continent, round about which exists a unity of interests."[1]

Chile has always cooperated with Latin Americans in the League. In 1925 it renounced a Council seat in favor of Brazil with the understanding that in 1926 the system of rotation would be inaugurated. In 1926 it supported the stand of Brazil for a permanent seat, feeling that such a procedure would enhance American influence and prestige in the League and be a step toward a more equitable equilibrium between Europe and America. With the intransigent attitude of Brazil and its subsequent withdrawal from the League, Chile became the logical and undisputed American candidate for a Council seat in 1926. Its election added a new cause for interest in the League. Chile considered the Council as reorganized in 1926 with three American members a great improvement over the previous make-up.

Enrique Villegas, the minister at Paris represented Chile on the Council during its term, 1926–29. As a representative on the Council he served as rapporteur on the super-

[1] *La Nación*, Buenos Aires, November 25, 1920, p. 1.

vision of the private manufacture of arms and ammunition, the manufacture of aircraft in the territory of the Free City of Danzig, the expenses in connection with the post of the High Commissioner for Danzig, the municipal loan for Danzig, a port d'attache for Polish warships for storage and transport of war material in Danzig, settlement of Armenian refugees and the Preparatory Commission for the Disarmament Conference.

We can say that Chile has been consistent in two respects regarding its membership in the League of Nations. First, it has steadfastly insisted that American problems should be reserved for solution in America unless all parties concerned agree otherwise; and, secondly, it has maintained that the Geneva institution is a step in advance in the accumulation and organization of statistical, sociological, juridical, intellectual and economic information, and hence deserves hearty collaboration.

Argentina

The relations of Argentina with the League of Nations are the most uncertain of any nation in Latin America. They have been complicated by a conflict between internal and external considerations, more marked than in any other of the republics south of the Rio Grande. Politically, Argentina has been in a state of flux during the existence of the League of Nations, and this fact has left its mark upon the policy of the Government. The amount of participation has been small and, therefore, easy to evaluate, but any attempt to explain the policy of the Government is difficult.

Argentina through its diplomatic representative at Paris gave notice of its adherence to the Covenant of the League on July 18 and 29, 1919.[1] It was represented at the First Assembly by Honorio Pueyrredon, minister of foreign affairs, Marcelo T. de Alvear, minister in Paris, and F. F. Perez, minister in Vienna. There has been considerable discussion regarding the position of this Argentine dele-

[1] *Official Journal*, I, p. 13–14; see *supra*, p. 47.

gation since the legislature had not approved the Covenant.[1] The Argentine delegation was admitted without any doubts being expressed regarding the powers or credentials of the Argentine delegation. This was natural.

The unconditional adherence of Argentina to the Covenant was made by the ordinary method of procedure. The Chief Executive is the qualified authority to conduct the foreign relations of the country and the Secretary-General of the League had no reason for questioning his action but accepted it as that of the Government. Even if there were doubt on this point, the Legislature authorized the President, without reservation, to accredit delegates with full powers to the Assembly. The attitude of the Assembly was, therefore, that the powers of the Argentine delegates were in due form. This was evidenced by its acceptance of the credentials and by the election of Sr. Pueyrredon as vice-president of the Assembly.

This was in accordance with practice:

> It is not the business of one government to interpret the constitutional limitations of another, or to take notice of them without authentic information. Recognition of a foreign government, even if only as a *de facto* government, implies recognition of its ministers and diplomatic representatives as authorized agents. Authorities being once verified as in due form, there can be no question of going behind them into matters of domestic politics. As a matter of fact the greatest trouble of diplomatists has often been in dealing with nominally autocratic rulers whom their ministers had no power to bind, and whose final decision might depend on the person who last had the opportunity of button-holing them. With a parliamentary government one can see the machine at work. But in the strict theory of international law the government of every state is as regards every other state an indivisible and impenetrable monad.[2]

[1] According to Art. 86, Sec. 14, of the Constitution of Argentina the President makes and signs treaties with foreign countries, but Art. 67, Sec. 19, gives Congress the power to approve or reject the treaties concluded with other nations. (José Ignacio Rodriguez, *American Constitutions*, I, p. 115, 124; República Argentina, Diario de Sesiones (Anexos) (Buenos Aires, Imperial del "Commercio del Plata", 1860).

[2] Pollock, Sir Frederick, *The League of Nations*, London, 2d edition, p. 100.

The Report of the Secretary-General on the Work of the Council was brought to debate at the fifth meeting of the Assembly November 17, 1920. Sr. Pueyrredon in his speech referred to "diplomatic belligerency," which left an unfavorable impression. He proceeded to develop the idea of a universal league and said the Argentine republic regarded it as essential that all sovereign states should be admitted to the League of Nations. Sr. Pueyrredon proceeded to submit a brief summary of the principles which Argentina had followed in international affairs both in time of peace and during the late war, in order to emphasize the harmony between those principles and the point of view he was about to indicate. Regarding the admission of all states, he said:[1]

> The strength of the League lies in the incorporation of the greatest number of Members; the fewer the states outside it, the more numerous will be those submitted to its discipline and ready to carry out the duties which it imposes upon them. The non-admission of certain countries might be the cause of dangerous antagonisms . . . The League would appear, quite unjustly, to be an alliance formed to conclude the late war, and not, as it is in reality, a powerful organization to maintain peace.

He did not propose a motion or resolution embodying the principles which he enunciated. Instead he said: "We are speaking merely on behalf of principles." In Argentine opinion it was necessary that the election of all the Members of the Council be by the Assembly in conformity with the principle of the equality of states. He favored compulsory arbitration and declared that Argentina was a partisan of a court of justice equipped with judicial powers. His Government considered it absolutely essential that the League of Nations should contemplate the creation of a permanent organization for economic cooperation between states in order to safeguard and improve the conditions of the people of each country.

[1] *Records of the First Assembly, Plenary Meetings*, p. 90.

None of these proposals was new. The first idea, — that of universality — was considered in the well-thought-out and elaborate Swiss plan submitted to the Swiss Federal Assembly, August 4, 1919.[1] This is also true of equality of states. The plan for rotation appeared in the Danish plan proposed March, 1919, and presented to the First Assembly.[2] Norway had proposed a detailed project in March, 1919, for complete arbitration which was officially presented to the First Assembly.[3]

The Fifth Committee (admission of new Members) elected as its chairman Antonio Huneeus Gana of Chile. The Argentine delegate on the committee was Señor Pueyrredon. The chairman announced at the second meeting, November 30, that the Secretariat had received a proposal from Argentina to the effect that states which had not been admitted to the League might, with the consent of the Council, sit in the Assembly without being entitled to vote, and proposed to reserve this question.[4] At the fifth meeting, December 2, the chairman read the proposal submitted by the Argentine delegation as follows:[5]

The strength of the League of Nations depends on its including the greatest possible number of states; the fewer the states outside it, the greater will be the number of the Members pledged to carry out its discipline and to perform the duties which it imposes. The non-admission of a number of states might lead to dangerous antagonisms, be the cause of the formation of a League of States outside the League in rivalry to it, and lead to constant anxiety for the peace of the world.

The Argentine delegation, therefore, proposes: That all sovereign states recognized by the community of nations be admitted to join the League of Nations in such a manner that if they do not become Members of the League this can only be the result of a

[1] *The Swiss Commentary on the Covenant*, p. 104 (this Series, III, No. 3).

[2] *Records of the First Assembly, Meetings of Committees*, I, p. 68.

[3] *Ibid.*, p. 73.

[4] *Ibid.*, II, p. 160.

[5] Item on records: "The committee took note of this document," *Records of the First Assembly, Meetings of Committees*, II, p. 224.

voluntary decision on their part. (Signed) H. PUEYRREDON. December 4, 1920.

At the sixth meeting, December 4, Chairman Huneeus [1] pointed out "that Sr. Pueyrredon's motion was for the Assembly to deal with and that the committee could not take any decision in respect of it." But in giving his opinion on the order of day, he placed before Sr. Pueyrredon's proposal one of Lord Robert Cecil, though it was never taken up. Sr. Pueyrredon did not enter into the discussion during the nine meetings up to December 13, 1920.

At the twelfth plenary meeting, December 2, when the report of Committee No. 1 on amendments to the Covenant was before the Assembly for discussion, neither Sr. Pueyrredon nor any of the Argentine delegation expressed any opinion regarding the report,[2] which recommended that the proposed amendments to the Covenant, — those of the Danish, Norwegian and Swedish Governments, — should be referred to a committee for report before the next Assembly. The Argentine delegation had not then presented its motion to the Committee.[3]

The Assembly voted a resolution embodying the recommendations of the first committee, with Argentina and Paraguay dissenting. Sr. Pueyrredon then remarked that he had voted against the motion because it did not permit amendments to the Covenant to be discussed during the course of the present Assembly.[4] M. Viviani of France pointed out that unanimity was not necessary for a vote on a question of procedure. To the statement of the president that this was a question of procedure which could be settled by a simple majority, Sr. Pueyrredon agreed.[5]

[1] *Records of the First Assembly, Meetings of Committees*, II, p. 189.

[2] *Ibid., Plenary Meetings*, p. 248–260.

[3] *Ibid.*, p. 246.

[4] *Ibid.*, p. 260; for explanation of the Paraguayan vote, see p. 262.

[5] It was generally understood that there was a disagreement among the Argentine delegates, of whom Sr. Pueyrredon was the only one in the Assembly at the vote. Sr. Perez did not attend and Sr. Alvear left a few minutes before the vote was taken. (*La Nación*, December 4, 1920.)

At the 13th plenary meeting, December 4, the president read the following proposal from the Argentine delegation:[1]

> That all sovereign states recognized by the community of nations be admitted to join the League of Nations in such a manner that if they do not become members of the League, this can only be the result of a voluntary decision on their part.

The discussion on the motion was referred to the next meeting in accordance with the Rules of Procedure; to this Pueyrredon did not object. Under exceptional circumstances, the Assembly may place additional items on the Agenda and by a two-thirds majority of the Assembly may consider it immediately, but this was not requested. That same day, Sr. Pueyrredon handed M. Hymans, president of the Assembly, the Argentine notification of withdrawal.

Two days later at the next plenary meeting, December 6, the letter of withdrawal of the Argentine delegation was read to the Assembly. In this letter the president of the Argentine delegation, — for the letter was signed by Pueyrredon alone, — said that his country "agreed, unhesitatingly, to participate in the work of the League. . . . We accordingly prepared a series of drafts, which were expounded in the statements read in the plenary Assembly on November 17. In these drafts, certain amendments to the Covenant were proposed."[2]

The letter continues: "These were our proposals: admission of all sovereign states; admission of small states, but without the right of voting; the Council to be constituted by election on democratic lines; obligatory submission of disputes to the courts of arbitration and justice. *All these amendments* . . . were presented by us to the Assembly as Argentina's contribution to the great work."

It is extremely difficult to follow Sr. Pueyrredon in this matter. It is equally difficult to follow his logic that "we [Argentina] should be lacking in consistency if, after

[1] *Records of the First Assembly, Plenary Meetings*, p. 261.

[2] *Ibid.*, p. 276.

having firmly upheld certain principles in our declarations and in the committees, we failed to adopt the only course which appears to us to be reconcilable with the convictions which induced the adhesion of our Government to the great idea of a League of Nations.

"The chief aim of the Argentine Government in sending the delegation, of which I have the honor to be head, was to cooperate in the work of drawing up, by means of amendments to the Covenant of the charter, in which we hoped it would be possible to embody the ideals and principles which Argentina has always upheld in international affairs, and from which she will never deviate. When once this aim has disappeared, owing to the postponement of the amendments, the moment has arrived for Argentina's cooperation in the work to cease. The adoption or rejection of the lofty principles contained in the amendments which have been presented to the League would have served to demonstrate to our country, and to public opinion, by what permanent rules of conduct the League of Nations was likely to be guided."[1]

This attitude would seem to indicate inexperience in the workings of international conferences. It is true, as Lord Robert Cecil pointed out, "that if every member of the Assembly were to take the line which the Argentine delegation has taken, no progress would have been possible. No Assembly can exist; no Assembly can function, if, because some decision as to the procedure on a particular resolution is arrived at, the author of that withdraws all his assistance from the deliberations of the Assembly."[2]

It is difficult to understand the motives of the Argentine President for the policy which was pursued in regard to the League of Nations. The following are some of the factors which undoubtedly influenced him, although it is impossible, as yet, to attempt an evaluation of the importance of each: Lack of information; failure to have a critical study of the Covenant made from the Argentine point of view; failure

[1] *Records of the First Assembly, Plenary Meetings*, p. 277.

[2] *Ibid.*, p. 278.

to formulate a definite plan or definite proposal embodying the President's ideas; desire to act as the spokesman for the Latin American countries in the League;[1] the presence of Brazil on the Council and the impossibility of Argentina being accorded a seat under the Covenant in its original form; the doubt expressed by many people in Argentina; the disapproval by many Argentinians of the lone rôle played by the President contrary to the Constitution; the independence of Irigoyen; and the objections in the United States to the League and its refusal to ratify the Covenant.

The Argentine motion and the Canadian motion, both of which had been presented December 4, were taken up December 6, after the Argentine delegation had withdrawn. Mr. Branting of Sweden moved that the amendments be referred to the Committee on Amendments, which would study all the amendments and report to the Second Assembly.[2] The Assembly adopted the motion, and the Argentine amendment, together with all others, was accordingly referred to the committee.

The Secretary-General sent a note to Argentina, January 22, 1921, asking if it wished all or part of the other propositions which were not officially presented by the Argentine delegation to the Assembly also considered by the Committee on Amendments.[3] Sr. Pueyrredon replied two months later, March 31, 1921, that all had been presented officially by the Argentine delegation and that he simply wished to correct the error.[4] To this the Secretary-General replied May 20, 1921, in detail as to each proposition and showed that the only official proposal before the Assembly was that of December 4, 1920. He said that suggestions had been made before the committees and that propositions to committees could in no way be considered as having been presented as proposals for amendments to the Covenant.[5] With this, the matter was dropped.

[1] Note of October 16, 1920, to Colombia.

[2] *Records of the First Assembly, Plenary Meetings*, p. 280.

[3] República Argentina, *Memoria de Relaciones Exteriores y Culto*, 1921–22, p. 47.

[4] *Ibid.*, p. 48.

[5] *Ibid.*, p. 50.

The Second Assembly considered the Argentine proposal in conjunction with other amendments. At the first meeting of the First Committee, Sr. Urrutia of Colombia proposed the postponement of its consideration until the arrival of the Argentine delegation. He said that all American countries wished to see the League of Nations undergo a liberal and progressive evolution and, for that reason, they favored the Argentine proposal.[1] However, the Colombian proposal was rejected and the Argentine delegation did not arrive in Geneva during 1921. Sr. Edwards of Chile stated that he had instructions to support the Argentine proposal. The Rumanian delegate said the Argentine proposal was not simply an amendment to the Covenant, it was a fundamental transformation of the spirit of the League and pointed out that to oblige a nation to become a member would be a derogation from its sovereignty. M. Noblemaire (France) said it would destroy the very essence of the League, which would then rest upon an absolutely different basis from that which its founders had intended. Dr. Fernandes (Brazil) pointed out the difficulty of such a provision in view of the sanctions. "Practically", he said, "the situation would be that a state had undertaken, without any act of its own will, but by an act to which it was completely a stranger, obligations, the failure to observe which would result in the sanctions. This would be an absurdity, a legal impossibility. The Argentine proposal consequently could not be accepted, either at the present time or in the future."[2] At the second meeting Dr. Fernandes' draft report harmonizing the divergent views was adopted.

The report of the First Committee stated that, ". . . the Argentine Republic was undoubtedly actuated by the highest motives . . . and if the actual moral and political conditions of the world were of a nature to support the ideal, . . . the difficulties of a purely legal value, . . . might perhaps be removed." It pointed out the difficulty that "the actual quality of 'Sovereign states recognized

[1] *Records of the Second Assembly, Meetings of Committees*, I, p. 10.

[2] *Ibid.*, p. 8.

by the community of nations' . . . does not express a well-defined idea. . . . Some states are recognized *de facto* and not *de jure*; some are recognized only by certain other states." It concluded that "the idea of universality, . . . which, in theory, deserves full approval, appears nevertheless to be incompatible with the actual conditions of the world, and can not therefore be accepted at the present." [1]

M. Scialoja (chairman of the First Committee) reported at the 30th plenary meeting of the Second Assembly in favor of postponement, first, because conditions might change, and, second, because the regrettable absence of Argentine delegates would prevent discussion of their motion, which was worthy of the most thorough consideration. The following resolution was adopted unanimously by the Assembly:[2]

> Though several of the difficulties involved in the Argentine proposal might be remedied by textual changes, the committee reluctantly states its opinion that, in view of the regrettable absence of the delegation of the Argentine Republic, and until the principle contained in its proposal can be accepted, any decision on the amendment moved by the Argentine Republic should be postponed.

President Irigoyen in his message to Congress May 20, 1921, simply stated that because of the non-acceptance of the ideas which it held to be essential, the Argentine delegation had withdrawn from the Assembly.[3] This is the last document appearing in the *Memoria* and it can be assumed that the matter was considered closed. Nothing appears in the documents for the following year while the next document referring to the situation was the message of the President to Congress June 6, 1923.[4]

During the remainder of his term of office, President Irigoyen apparently ignored the League of Nations.

[1] *Records of the Second Assembly, Meetings of Committees*, I, p. 181.

[2] *Ibid., Plenary Meetings*, p. 818.

[3] *Revista Argentina de Ciencias Politicas* (Buenos Aires, 1921), Tomo XXII, p. 212.

[4] *Memoria*, 1923, p. 36.

Argentina failed to meet its budget quota and did not cooperate in any League activities. It even refused to participate in the International Labor Conference in 1921 and 1922, and did not send the answers, which were prepared, to the questionnaire sent out by the International Labor Office.[1]

When Dr. Marcelo T. de Alvear became President in 1922, many thought that the unusual position of Argentina in regard to the League of Nations would be regularized. Dr. Alvear had been a member of the delegation to the First Assembly and had not approved of the withdrawal.[2] President Alvear urged Congress, June 2, 1923, to provide an appropriation for the payment of the Argentine quota to the League budget. This was provided for and on June 10, 1924, Argentina paid its back contributions, including contributions toward the budgets of 1922 and 1923, although Argentine quotas had not been included in them.

President Alvear in a special message to the Congress on August 19, 1924, presented the question of the adherence of Argentina to the League of Nations.[3] The Committee of Foreign Affairs considered the President's message on August 29, 1924, and on September 17, 1924, reported a resolution to the effect that it was premature to take definite action on such an important matter.[4] The next year the committee considered the League question on July 17, 1925.[5] It was further postponed on two successive occasions.[6] In the session of 1926 the Argentine status in the League was finally taken up by the committee a few days before the close of the session, but again no action was taken.[7] In his repeated recommendations President Alvear

[1] *La República Argentina en la Organización Internacional del Trabajo*, Ministerio de Relaciones Exteriores y Culto, 1925, p. 75, 91, 95.

[2] *La República Argentina ante la Liga de las Naciones*, Ministerio de Relaciones Exteriores y Culto, 1922, p. 213, 237.

[3] República Argentina, *Diario de Sesiones de la Camara de Diputados*, 1924, p. 337.

[4] *Diario*, Tomo 6, 1924, p. 69.

[5] *Ibid.*, 1925, Tomo 2, p. 629.

[6] *Ibid.*, Tomo 4, p. 443; Tomo 5, p. 28.

[7] *Ibid.*, 1926, Tomo 6, p. 302.

was constantly supported by the minister of foreign affairs, Sr. Gallardo.[1]

As a result of the presidential election in 1928, Sr. Irigoyen was returned to power and there seems little likelihood of a change of policy under his presidency.

During the last three years of President Alvear's administration there was increased cooperation with the League. Argentina paid its budget quota from June 10, 1924, through 1929. On September 8, 1924, the Government of Argentina registered its first treaty with the League Secretariat,[2] the arbitration treaty with Venezuela.

Argentina appointed a permanent observer at Geneva (the minister at Bern) to keep the Government informed on the activities of the League. He attended the Ninth Assembly (1928), but this practice has not been followed since that time. A Bureau on the League of Nations has been established in the Ministry of Foreign Affairs since May 3, 1921. Beginning with the fifth session of the International Labor Conference in 1923, Argentina resumed representation at the annual conferences of that organization.[3]

The invitation from the League to accept a place on the Committee on Composition of the Council was the occasion for a renewed effort by President Alvear and Minister Gallardo in the message of March 24, 1926, to have the Legislature regularize Argentine relations with the League. The cabinet meeting of April 21, 1926, considered the question of sending representatives to the League of Nations Commission on the Composition of the Council and to the Preparatory Commission for the Disarmament Conference.[4] The decision was reached that Argentina was a Member of the League of Nations from the international point of view and that the fact that Congress

[1] República Argentina, *Camara de Diputados de la Nación*, Orden del Dia, 1924, No. 14; Orden del Dia, 1925, No. 69; Orden del Dia, 1926, No. 70.

[2] *Treaty Series*, XXVIII, p. 287.

[3] *La República Argentina en la Organización Internacional del Trabajo*, Ministerio, de Relaciones Exteriores y Culto, 1925, p. 97, 113, 127, 129.

[4] *La Nación*, April 21, 1926, p. 1.

had not yet approved it in accordance with the Constitution, would not prevent the cooperation of delegates in the work of the commissions.[1] This was by virtue of Art. 86 of the Constitution, which grants executive powers to the President of the Republic.

Renewed effort to interest Argentina in a return to League meetings was conspicuous at the Ninth Assembly, when during the 16th plenary meeting Sr. Guerrero of Salvador observed that he had had the privilege of working side by side with the delegation of Argentina at the Sixth International Conference of American States and expressed the hope "that, at the next ordinary session of the Assembly, we may have the privilege of welcoming back, not only the delegation of Costa Rica, but also that of the Argentine Republic."[2] This was the signal for a general outpouring of compliments and the expression of the hope that Argentina would soon return to the deliberations of the League.

Peru

On November 8, 1920, Peru presented a petition to the League of Nations requesting the revision of the treaty of 1883 between Chile and Peru, involving the "question of the Pacific."[3] It had been rumored that this would be done but many felt confident that the Government of Peru could be persuaded to desist, at least for the time being. Pressure was brought to bear upon the Peruvian delegates and on December 2, 1920, they withdrew the petition, reserving, of course, the right to present it anew at a convenient time.

The Assembly not only hesitated to consider the Tacna-Arica question but the chance of its ever considering it was, to say the least, remote. Peru had seen the League as a noble institution which would mete out justice and

[1] *La Nación*, April 24, 1926, p. 1.

[2] *Records of the Ninth Assembly, Plenary Meetings*, p. 131 (*Official Journal*, Spec. Sup. No. 64.)

[3] On the question in general, see Graham H. Stuart, *The Tacna-Arica Dispute*, p. 7-34 (World Peace Foundation, X, No. 1).

undo the injustice which had been imposed upon nations by force and violence. To the Peruvian mind there was but one just solution of the "Pacific problem." Hence, when Peru realized that the League would not or could not follow what in its conception were the dictates of justice and right, Lima not only sustained a great disappointment, but the fact dawned rather suddenly that the organization was not what some Peruvians had supposed it to be. The position of the United States in regard to the League was an important factor. The close relationship between Washington and Lima is well known. Peru had great admiration for President Wilson, who was called in the resolution passed by the Constitutional Assembly, "the great American." The absence of the United States, — recognized in Peru as the leader of the American continent and proclaimer of America for Americans, — influenced the framing of a new policy. Since Tacna and Arica was the focal point of all Peruvian foreign policy and since Geneva would not consider it, there was but one logical move, — that of looking elsewhere.

Peru's interest in the League waned even more rapidly than it developed. The Government, however, maintained the *status quo* and hoped that the pending Bolivian petition might still allow a solution at the Second Assembly. Thus, Bolivia was not only urging its own case but also advocating indirectly the cause of Peru; they had worked together in presenting their claims. The Bolivian petition was withdrawn from the Second Assembly. This ended the new policy of the Peruvian Government. During the previous year a new orientation in anticipation of a possible failure at Geneva had been taking place. Eyes were turned to Washington and ears were tuned to the White House instead of to the Palace of Nations, and hence when the decision was taken in Geneva, Peru was definitely on the road of "America for Americans."

The history of the negotiations leading to the convention naming the President of the United States as arbiter of the Tacna and Arica question would lead us afield, but suffice

it to say that Peru from then on looked to Washington for the solution, with a consequent cooling of admiration for the world institution.

The participation of Peru from 1920 to 1929 was, therefore, slight. Its delegates, the ministers at Paris, Madrid and Brussels, respectively, played a passive rôle. They are recorded in the First and Second Assemblies as favoring certain general propositions such as compulsory arbitration. The Government proposed a delegation for the Third Assembly but subsequently decided not to be represented.[1] It sent no other delegation to any of the Assemblies until 1929.

It did not pay the budget quotas until 1928, when 1,461,771 francs had accrued, but never proposed to give definite notice of withdrawal at the end of two years in accordance with the Covenant. Lima had relatively little to do with the League Secretariat, with which it carried on a comparatively light correspondence. Beyond furnishing information requested, it did not cooperate with the League from 1921 to 1928. Several leading Peruvians even expressed the opinion that Peru was not a Member of the League.

The country was in a position to resume activity at any moment and was maintaining the *status quo*. It had nothing to lose by this procedure, while there was a possibility of some eventuality arising in which it would be advantageous to have official bonds with the world organization. It is important to note that there was no evidence of opposition or antagonism to the League and that absence was simply the result of circumstances.

When the problem of "national interests" was solved,[2] the considerations which led to Peruvian adherence came to the fore. Many prominent Peruvians had expressed the opinion that Tacna and Arica was their most important problem and since the League would not act regarding America, they could have nothing to do with Geneva until

[1] *Records of the Third Assembly, Plenary Meetings*, p. 13.

[2] The treaty between Chile and Peru settling the Tacna-Arica question was signed at Lima, June 3, 1929.

that matter was settled. Then, too, the favorable position which Chile enjoyed as a member of the Council was also a factor. The renewal of diplomatic relations with Chile and the solution of the Tacna-Arica problem completely changed the situation.

Peru sent a delegation to the Tenth Assembly in September, 1929, and was immediately elected as a nonpermanent member of the Council to occupy the seat just vacated by its late rival Chile. This opened a new page in Peru's relations with the League of Nations.

Uruguay

The rôle which Uruguay has played in the League of Nations, although not a prominent one, has been at least worthy. One of the original Members, Uruguay, has been represented at every Assembly and has fully cooperated with Geneva. The same attributes which have won for Uruguay admiration on the American continent have likewise commanded the respect of the world at Geneva. If it can be said that some states have sought national advantage through the League, such a charge can not be brought against the Republic of Uruguay. It has ever held the view that all matters shall be decided from the point of view of the advantages accruing to the Members as a whole rather than to any individual nation.

Uruguay has been represented in the Assembly meetings and the Council sessions almost entirely by diplomats accredited to European nations. Alberto Guani, minister at Brussels and later minister in France, was the Uruguayan delegate to the Council during the years that Uruguay was a nonpermanent member, with but two exceptions. Benjamin Fernandez y Medina, the minister in Madrid, has been a delegate to all Assemblies except the second.

Uruguay was elected by the Third Assembly to a nonpermanent seat on the Council and was represented for the first time at the 23d session, January 19–February 3, 1923. It was also elected by the Fourth and Fifth As-

semblies, its term of office ending in 1926. The Uruguayan delegate fulfilled his duties with tact and ability in the many delicate problems which the Council was called upon to consider.

Uruguay has been very prompt in its payment of the League quotas. This can be considered as a particular virtue in view of the fact that the preponderant number of delinquent members are American states. In fact, Uruguay is one of the few Latin American states which has not been in arrears at some time during the League's existence.

At the First Assembly, Dr. Juan Carlos Blanco, minister at Paris and head of the delegation, was elected as vice-president on December 11, 1920, to fill the vacancy created by the withdrawal of Sr. Pueyrredon of Argentina. Sr. Fernandez y Medina was elected vice-president by the Fourth Assembly. By his continuous service he has established a reputation which is recognized by his frequent appointment to serve as rapporteur. In that capacity he served in the Fifth Assembly on the question of an international federation for the mutual assistance and relief of peoples overtaken by disaster. He proposed the constitution of a committee appointed by the League and the Red Cross to elaborate the scheme, which was adopted. He likewise interested himself in the question of protection of children.[1] He proposed to the Fifth Committee a resolution that Latin America should be appointed to the Advisory Committee on Traffic in Opium.[2] This was adopted by the Assembly,[3] and the Council appointed Bolivia on December 10, 1924.

Education has interested Uruguay. A resolution provided that the Assembly recommend that the Council instruct the International Committee on Intellectual Cooperation to prepare a draft text on the objects and work of the League which would serve as a model in the schools of all countries for teaching the conception of solidarity and

[1] *Records of the Fifth Assembly, Meetings of Committees, Minutes of the Fifth Committee*, p. 72–74 (*Official Journal*, Spec. Sup. No. 28).

[2] *Ibid.*, p. 16, 17.

[3] *Ibid.*, p. 116.

international cooperation, in connection with the League of Nations.[1]

This matter was remitted to the Sixth Assembly on the recommendation of the Agenda Committee [2] and referred to the Committee on Intellectual Cooperation, along with other proposals. The Committee submitted them to a subcommittee of experts, which determined the best methods to procure the desired results.[3] At the Sixth Assembly, Uruguay proposed that the Council authorize the Committee on Intellectual Cooperation to prepare a document for the teaching profession to explain the organization, aims and work of the League.[4] This proposal was adopted by the Assembly in a resolution September 22, 1925.[5] The publication was issued in 1929 and a survey of the teaching done is issued twice a year.

Another subject brought up by Uruguay was that of telegraphic services. It proposed that the Assembly voice the hope that the Conference of the Universal Telegraphic Union would consider giving the journalists who followed the work of the League, the largest facilities regarding rates and services, in order to assure the greatest possible diffusion of news concerning its work and activities.[6]

Uruguay has been a consistent partisan of arbitration in America, at The Hague and in the League.

Dr. Blanco spoke in favor of compulsory arbitration at the First Assembly.[7] On September 14, 1925, Sr. Enrique Buero said that from Uruguay's point of view compulsory arbitration is the very heart and essence of the Geneva Protocol. He pointed out that the Latin American coun-

[1] *Records of the Fifth Assembly, Meetings of Committees, Minutes of the Fifth Committee*, p. 183 (*Official Journal*, Spec. Sup. No. 28).

[2] *Ibid., Plenary Meetings*, p. 186 (*Official Journal*, Spec. Sup. No. 23).

[3] *Records of the Sixth Assembly, Plenary Meetings*, p. 105 (*Official Journal*, Spec. Sup. No. 33).

[4] *Ibid., Meetings of Committees, Minutes of the Second Committee*, p. 94 (*Official Journal*, Spec. Sup. No. 35).

[5] *Ibid., Plenary Meetings*, p. 105 (*Official Journal*, Spec. Sup. No. 33).

[6] *Ibid., Meetings of Committees, Minutes of the Second Committee*, p. 20 (*Official Journal*, Spec. Sup. No. 35).

[7] *Records of the First Assembly, Plenary Meetings*, p. 448.

tries were mutually bound by treaties of arbitration which are in keeping with the principles of the Protocol and expressed the hope that there might be a systematic increase of general arbitration treaties throughout the world. "In this sense we may justifiably say that the international policy of the Latin American countries may be regarded as a continental application of the principles of the Covenant of the League." [1] Sr. Buero presented a resolution to the Sixth Assembly requesting the Council to undertake a study of the Statute of the Permanent Court of International Justice with a view to widening the jurisdiction of the Court. This was placed on the Agenda for 1926.[2]

In a letter read to the Assembly September 16, 1926, Uruguay withdrew its candidacy for a nonpermanent seat on the Council. In this letter the Uruguayan delegation opposed the practice of Latin American group meetings imposing their nomination upon members of the group. It noted that such a meeting for Latin America, with Argentina, Mexico, Brazil, Peru, Ecuador, Bolivia, Costa Rica and Honduras absent, could not competently interpret the real aspirations of all the countries. Such meetings could lead to no more than an unofficial exchange of views.[3] "The Assembly, and the Assembly alone, possesses the right, the power and the authority necessary to select candidates."

Colombia

Colombia has played a reasonably active part in the activities of the League. Dr. Francisco José Urrutia, the Colombian minister at Bern and Madrid, has represented his country at each and has, therefore, profited by the experience and contacts which are assets in a world assembly as well as in a national parliament. At several sessions of the Assembly he has been the only delegate.

[1] *Records of the Sixth Assembly, Plenary Meetings*, p. 71–72 (*Official Journal*, Spec. Sup. No. 33).

[2] *Ibid., Meetings of Committees, Minutes of the First Committee*, p. 24 (*Official Journal*, Spec. Sup. No. 34).

[3] *Records of the Seventh Assembly, Plenary Meetings*, p. 82 (*Official Journal*, Spec. Sup. No. 44).

Dr. Urrutia and Dr. Antonio José Restrepo occupied themselves at the First and Second Assemblies with questions of procedure. Dr. Urrutia's remarks regarding the unanimity rule are interesting. He divided resolutions into three categories, each to have its own procedural requirements. He thought that resolutions which are to amend or introduce new clauses into the Covenant should be passed by unanimity; that resolutions which aim at developing principles of the Covenant along practical lines should be passed by a two-thirds vote; and that resolutions dealing solely with procedure would require only a majority.[1]

Dr. Restrepo favored the immediate admission of Estonia, Latvia, Lithuania and Georgia at the First Assembly, contrary to the recommendations of the Fifth Committee, of which he was a member.[2]

Dr. Urrutia was prominent in the discussions in the Third Committee on the Statute of the Permanent Court of International Justice. Again he occupied himself with matters of procedure. He was and has been always in favor of greater Latin American representation and proposed to amend Art. 3 of the Statute to make a court of 15 judges and six deputy judges, to be allocated as follows:

8 judges and 3 deputy judges of European nationalities.
5 judges and 2 deputy judges of American nationalities.
2 judges and 1 deputy judge of Asiatic or African nationalities.

The Colombian delegates have frequently spoken before the Assembly on arbitration, admission of new members, the principles which Argentina proposed in 1920, the Permanent Court, and greater democratization of the League. On this latter subject Señor Urrutia on September 11, 1925, made the following suggestions for "democratization" by "effective means" under the Covenant:[3]

[1] *Records of the First Assembly, Plenary Meetings*, p. 257.

[2] *Ibid.*, p. 616.

[3] *Ibid.*, p. 480, 583; *Records of the Second Assembly, Plenary Meetings*, p. 816–817; *Records of the Fifth Assembly, Plenary Meetings*, p. 76–77, 102 (*Official Journal*, Spec. Sup. No. 23); *Records of the Sixth Assembly, Plenary Meetings*, p. 48–49 (*Official Journal*, Spec. Sup. No. 33).

The chief of these, in my opinion, consists in giving the League powers, as wide as the Covenant will permit, to enable it to express its desires by real resolutions and not by mere recommendations or requests addressed to the Council.

Once invested with these powers, the Assembly would itself enact the Statutes of the principal technical bodies of the League — such as the Committee on Intellectual Cooperation, for example — according to the procedure adopted by the Barcelona Conference in regard to the Organization of Communications and Transit.

In the same way, the Assembly would in future possess the right to nominate the members of these bodies, which would then have the weight of its authority, and the Council would be relieved of a very complex part of its work, which, nevertheless, it carries out most conscientiously. . . .

One of the most valuable results of the democratization of the League would be to hasten the day when it will include all the nations of the world and particularly those American states whose absence we still deplore.

Although opposing increases in expenses, Colombia has paid allotments to the League budget regularly and is there fore in good financial standing with the Geneva institution.

At the Seventh Assembly Colombia was elected as a nonpermanent member of the Council for three years.[1] Dr. Urrutia represented his country on the Council beginning with the 42d session on September 16–20, 1926. In the Council meetings the Colombian representative fulfilled his task with credit. Dr. Urrutia called the attention of the Council to the "Extensive and remarkable effort at codification of international law which had been made during the past few years by the Pan American Union,[2] and urged that the League's committee should consider the results of the efforts which had been made in the Western Hemisphere. During 1927 he served as rapporteur on the Financial Committee, on protection of minorities in Upper Silesia, on the Communications and Transit Conference, and on the legal position which would

[1] *Records of the Seventh Assembly, Plenary Meetings*, p. 82 (*Official Journal*, Spec. Sup. No. 44).

[2] *Official Journal*, VIII, p. 1452.

arise from economic sanctions. In the next year he was rapporteur for the very delicate series of minorities questions.

In 1927 the Colombian Government established a special section in the Ministry of Foreign Affairs to deal with all matters connected with international organizations such as the League. Colombia also has a permanent representative accredited to the League.

Venezuela

Venezuela has been represented at each session of the Assembly of the League by delegates who have been largely diplomatic representatives accredited to some of the European nations. It has established a League of Nations Bureau in the Ministry of Foreign Affairs.

The action of the Venezuelan delegations has been in regard to such subjects as compulsory arbitration, the adoption of Spanish as an official language, finances of the League, intellectual cooperation, and reorganization of the Council. Dr. Rodriguez favored compulsory arbitration in a long speech before the First Assembly[1] and Cesar Zumeta, minister at Rome, was rather prominent in the discussions of the Fourth Committee (finance) of the Third Assembly in regard to the Latin American office and the Health Organization.

In the same committee of the Fourth Assembly he opposed coercive measures against states which were in arrears in their contributions. It might be noted that Sr. Zumeta and Dr. C. Parra-Perez, chargé d'affaires at Bern, have represented their country in all sessions of the Assembly except the first two.

Dr. Parra-Perez urged in the Fifth Committee of the Fourth Assembly that a Spanish American be named on the Committee on Intellectual Cooperation. He later joined France and Rumania in a resolution to have the Slav group, the Spanish speaking American group and the

[1] *Records of the First Assembly, Plenary Meetings*, p. 166–169.

Asiatic group each represented on that committee.[1] He also spoke before the Assembly in favor of enlargement of the committee, saying:[2]

> We do not seek to revolutionize or disturb; our aim is to share in the work for the improvement of intellectual relations between the nations; but, in so doing, we consider that due attention should be paid to the rights of these eighteen countries beyond the ocean, which . . . own as a common heritage three great human attributes — thought, creed, language.

At the Sixth Assembly in 1925 Sr. Zumeta proposed that from 1926 there should be applied the principle of rotation,[3] to obviate the reelection of the same nonpermanent members of the Council.

The Ninth Assembly elected Venezuela as a nonpermanent member of the Council for three years, in succession to Colombia, whose term expired in September, 1928. The Venezuelan representative has been Sr. Zumeta, who has been rapporteur on humanitarian and refugee questions and international bureaus.

Bolivia

The participation of Bolivia in the Assembly has been irregular and somewhat passive, with the exception of the attempt to have the League consider[4] a revision of the treaty of 1904 between Chile and Bolivia. The Bolivian delegation gave up that effort during the Second Assembly and the Government failed to accredit delegates to the Third Assembly until after the opening of the meetings, and then only by telegram. Although this was not the customary form of credentials, they were accepted. The

[1] *Records of the Fourth Assembly, Meetings of the Committees, Minutes of the Fifth Committee*, p. 34 (*Official Journal*, Spec. Sup. No. 18).

[2] *Ibid., Plenary Meetings*, p. 104 (*Official Journal*, Spec. Sup. No. 13).

[3] *Records of the Sixth Assembly, Plenary Meetings*, p. 160 (*Official Journal*, Spec. Sup. No 33).

[4] See p. 76.

Fourth Assembly saw Bolivia join Argentina and Peru in the rank of absentees and for several years the country failed to be represented at the Assemblies.

Bolivia sent a delegation to the Tenth Assembly (1929).

One reason for sending a delegation to that Assembly was to have representatives present for the consideration of an application made by President Hernando Siles on June 29 for the assistance of the Health Committee in the reorganization of the sanitary service of the country. The request was that an expert be delegated by the Health Committee to cooperate with the Bolivian director general of health at La Paz in the scientific organization of that work. After a preliminary period of six to eight months the Health Committee would select a technical cooperator to work with the Bolivian official for two years. The Council on August 31 replied favorably to the President's letter and expressed its satisfaction that the Bolivian Government had solicited the aid of the Health Organization, to which it intrusted the carrying out of the program. Señor Alberto Cortadellas, representative of Bolivia in the Council proceedings, stated that the letter of the President showed how much his Government appreciated the general work done by the League and "the meaning and great importance, for each Member of the League, of the assistance which that organization could give through the instrumentality of its technical organizations in the development of national institutions."[1]

At the moment the request was acted upon Bolivia was in arrears on the budget quotas since 1923, a total balance of 630,772.03 Swiss francs being due.

The dispute between Bolivia and Paraguay, which had come to the cognizance of the Council in December, 1928, is dealt with in a connected narrative in a subsequent chapter.[2]

[1] *Official Journal*, X, p. 1453; see letter of the President at p. 1587.

[2] See p. 179.

Paraguay

The participation of Paraguay in the League has been almost entirely of a passive nature. It has been represented at each of the Assemblies by the minister at Rome or by the chargé d'affaires at Paris. In none of the Assemblies, however, have the delegates taken a prominent part. It might be noted that the credentials of the delegate to the Fourth Assembly were not presented until the 15th plenary meeting, although the delegate accredited to the meeting was Dr. Caballero, the chargé d'affaires at Paris, who was also the diplomatic representative charged with permanent relations with the League.

2. Caribbean Republics

Cuba

The most prominent, most active, and most consistent participant of the Caribbean area in the work of the League is unquestionably the Republic of Cuba. It is the only Government of this region which has sent a complete delegation to Assemblies and they have likewise been the most distinguished while the eminent Cuban jurist, Dr. Antonio Sanchez de Bustamante, is a member of the Permanent Court of International Justice. Cuba has heartily cooperated in the ratification of League conventions,[1] and has regularly attended special technical conferences held under League auspices. It has a permanent representative accredited to the League.

In 1927 the Cuban Society of International Law appointed a commission for the scientific investigation of the nonpolitical activities of the League.[2] This commission serves as a technical advisory body to the League of Nations Section of the Cuban Department of State in regard to all matters submitted by the League. This "Cuban League of Nations Commission" also arranges lectures on

[1] See *infra*, p. 162 *ff*.

[2] *Official Journal*, VIII, p. 1533.

the aims and work of the League in an effort to develop a real popular interest in it.

Most of the Cuban delegates to Assemblies have been diplomatic agents accredited to European Governments. At the First Assembly, Dr. Aristides de Aguero y Bethancourt, minister to Germany, headed the delegation and was assisted by the ministers to France and Italy. This delegation favored compulsory arbitration, the designation of Spanish as an official language of the League, and the reeligibility of nonpermanent members of the Council. The chief of the delegation protested against the assertion which was being made in certain organs of the press that "the countries from the other side of the Atlantic are incapable of understanding European ideals, and of contributing in a useful and sincere manner to the common work that has been undertaken." "Gentlemen of the Press," he said, "we come with sincere intentions to do our share of the common task."[1] In stating the differences between Europe and other regions, Señor Agüero y Bethancourt said:

> We all know that problems have arisen here which do not affect the Old World but are very real to the New World. I ask the illustrious representatives of the Old World to say frankly whether they are in a position today to find a solution for the problems of this kind which have been submitted by several Members to the Assembly. I hardly think so, for the great powers of the Old World have great interests and immense problems which occupy all their time and do not allow them to concern themselves with the interests of other continents. If the powers of the other continents do not come here to help in the solution of these problems, it will not be possible to find for them a solution which will be just and founded on right.

There is no doubt that Cuba has profited from its affiliation with the League of Nations, which has exalted its international importance. In an address delivered at a banquet of the Cuban Society of International Law at Habana on March 5, 1922, Señor Cosme de la Torriente

[1] *Records of the First Assembly, Plenary Meetings*, p. 428–430.

said: "The great advantage that Cuba has gained by becoming a Member of the League of Nations, the great advantage that we have obtained in having Cuba represented by Dr. Bustamante in the Permanent Court of International Justice, lies in the fact that from day to day the world will become more convinced that Cuba is a country well prepared for independence."[1]

The head of the Cuban delegation, Señor Cosme de la Torriente, was elected President of the Fourth Assembly. This was a distinction recognizing the loyal support which Cuba had given to the League. With the possible exception of Chile, Cuba had given the most consistent and hearty support of any American Member, and it was natural that the second American to be elected president of a League Assembly should have been a Cuban.

The Cuban delegation proposed to the Fourth Assembly:[2]

> In order to give a more general character to the recommendations of Pan American conferences, the Cuban delegation begs to submit to the Assembly of League of Nations the following proposition:
>
> The Assembly decides to accept with the greatest sympathy the principle of closer municipal relations which the Santiago conference recommended to the members of the Pan American Union for adoption, in view of the fact that the maintenance of direct relations between the important municipalities of various countries is a new form of cooperation between peoples which will contribute largely to diffusing the ideals which led to the creation of the League of Nations and which guide its work.

This was placed on the agenda of the Fifth Assembly, which directed the Secretariat to study the question. No practical means of accomplishing the object was found.

Señor de Agüero y Bethancourt has been a delegate to every Assembly and has been otherwise active in the League's work. He was rapporteur on the question of Greek and

[1] *International Conciliation*, September, 1922, No. 178.

[2] *Records of the Fourth Assembly, Plenary Meetings*, p. 94 (*Official Journal*, Spec. Sup. No. 13).

Armenian refugees at the Third Assembly. At the Sixth Assembly he recalled that a representative of the League Health Organization had visited Cuba at the time of the Pan American Sanitary Conference and had discussed means of developing cooperation in health matters. The Cuban delegate proposed that the Health Committee organize an interchange of personnel in Latin America.[1] The complete delegation to the Seventh and Eighth Assemblies did not take a prominent part in the proceedings. The Council at the 44th session invited Señor de Agüero, who was chairman of the Advisory and Technical Committee for Communications and Transit, to preside over the Third General Conference on Communications and Transit, which he did.[2]

Cuba was elected to the Council in 1927 and Señor de Agüero was its representative at the 47th session. At the 48th session he was made rapporteur on the establishment of an Administrative Staff Tribunal and on the appointment of an auditor and deputy auditor of the League of Nations. He favored extending the activities of the Health Committee to other Latin American countries. He was also rapporteur upon the appointment of two members of the Supervisory Commission, and also on the appointment of members on the Board of Management of the Staff Provident Fund. At the 49th session Señor de Cespedes, the Cuban representative, was rapporteur on the question of the Conference Hall, on the expenses of the Committee of Inquiry on the Bulgaro-Greek incident and on the expenses of military attachés in carrying out the mission on the Polish-Lithuanian frontier, as well as on health problems. He was also rapporteur on the Library of the League and the Staff Provident Fund. At the 50th session Señor de Agüero y Bethancourt was president of the Council and was rapporteur on the report of the Committee on the Allocation of Expenses and on the

[1] *Records of the Sixth Assembly, Meetings of Committees, Minutes of the Second Committee*, p. 21 (*Official Journal*, Spec. Sup. No. 35).

[2] *Official Journal*, VIII, p. 381.

budget for 1929. During this session the Szent-Gothard incident was before the Council and it was the draft resolution which the president proposed that was adopted by the Council on this matter. At the 51st session he was rapporteur on the Transfers in the Budget for 1928 and certain other matters relating to the budget. Señor Orestes Ferrara represented Cuba at the 52d session.

Cuba sent a rather imposing delegation to the Ninth Assembly, including four substitutes and five secretaries. Señor Ferrara in the discussions on the codification of international law [1] in the First Committee called attention to the work which had been done in America in this field. He proposed that any work of codification should be prefaced by a declaration regarding the rights and duties of states. This was obviously a reflection from the International American Conference which had been held in Habana during the early part of that year. The Assembly recommended that the Committee of Experts on the Codification Conference examine the possibility of formulating such a declaration.[2] Its report on the subject [3] resulted in no positive action.

Another proposal of Señor Ferrara likewise had its origin at the American conference. He urged that the Council be requested to consider the advisability of recommending that the Governments include women in their delegations to the forthcoming Conference on the Codification of International Law. He noted that the Habana conference had established an Inter-American Commission of Women with the task of preparing the necessary documentation for a study of the question of civil equality. The Assembly adopted a resolution expressing the hope that the Members would consider the desirability of including women in their delegations, at least for the consideration of questions of nationality.

[1] *Records of the Ninth Assembly, Meetings of the Committees, Minutes of the First Committee*, p. 16–17 (*Official Journal*, Spec. Sup. No. 65).

[2] *Ibid., Plenary Meetings*, p. 143 (*Official Journal*, Spec. Sup. No. 64).

[3] *Official Journal*, IX, p. 858.

Panama

The attendance of Panama at the League Assembly has been constant and consistent. At each session its delegates have, for the most part, been diplomatic agents. Generally two delegates out of a possible three have been in attendance. In no session, however, has any delegate taken an active part.

At the First Assembly the Panaman delegation favored compulsory arbitration and took part in the discussions on the Permanent Court of International Justice. It proposed a clause providing for economic sanctions in case a decision of the Court were not complied with, which was not accepted. It also protested against the scale of contributions to the League.

In February, 1921, only a few months after Costa Rica had been admitted to the League, a border dispute arose between it and Panama. The boundary had been in dispute for a long time and had been the subject of arbitration by President Loubet of France in 1900 and of an award by Chief Justice White of the United States in 1914.[1] Panama had refused to accept this award, on the ground that it did not conform with the *compromis*. On February 21, 1921, the day on which the Council of the League convened in Paris, Costa Rica seized the Coto territory assigned to it under the Loubet award. The village of Puerto Nuevo was occupied, but Panama recaptured the region and took a number of Costa Ricans prisoners. A state of tension resulted which threatened the peace of the isthmus. Feeling ran high and a mob assaulted the Panaman legation in San José. Costa Rica reinforced the troops on the frontier and Panama proceeded with military preparations.

The Secretary-General of the League, acting upon reports in the newspapers, instructed the Secretariat on February 28, 1921, to collect information on the differences between Panama and Costa Rica. On March 1 the Council agreed that it was unnecessary to send a telegram already

[1] *Foreign Relations of the United States, 1914*, p. 1000.

prepared, since the press reported a satisfactory solution.[1] Newspaper reports continued disquieting, and at the close of its session on March 4, the Council brought these reports by cable to the attention of both "Members of the League who have solemnly and publicly subscribed to the high principle and obligations of the Covenant" and requested information as to the facts.[2]

A few minutes after, a telegram, sent from Panama on March 2 and relayed from Geneva on the 3d, was received by the Council. It denounced the acts of Costa Rica and expressed confidence that they deserved "the punishments prescribed in such cases by the Covenant of the League."[3] This cablegram notified the Council that the United States had tendered its good offices and that Panama had accepted. The Council immediately expressed its pleasure "to know that the United States Government have offered their good offices and that these have been accepted by the Government of Panama."[4] An additional protest from Panama against "the acts of arbitrary violence for which Costa Rica is responsible" was received in Paris March 5.

During this time the Panaman legislature and executive had adopted war measures and the presidential residence had even been assailed because the President was believed to be lukewarm. The United States had immediately protested against the use of force by either disputant. Panama inquired of the United States regarding its understanding of its obligations to maintain the independence of Panama in the light of the treaty of November 18, 1903.[5] On March 4, the United States called upon the two countries to refrain from hostilities and tendered its good offices, Secretary Hughes reminding the parties that in 1915 they had agreed to submit disputes to the mediation of the United States.[6]

[1] *Minutes of the 12th Session of the Council*, p. 27.

[2] *Ibid.*, p. 199; *Official Journal*, II, p. 215.

[3] *Official Journal*, II, p. 214.

[4] *Ibid.*, p. 215.

[5] Malloy, *Treaties, International Acts, etc.*, p. 1349.

[6] *Foreign Relations of the United States*, 1915, p. 1131.

On March 8, the Secretary-General was informed by Costa Rica "that, thanks to the mediation of the Government of the United States of America, the dispute between Costa Rica and Panama is virtually at an end." The acting president of the Council, Dr. Gastão da Cunha (Brazil), was quick to express his satisfaction at the acceptance of the mediation of the United States and to add that the Council considered "the dispute in the process of settlement."[1] Dr. da Cunha stated that the United States had always exercised a good influence in Central American affairs, and that in the present case the Council could only give the United States an opportunity to do something before itself taking any action.[2]

Panama objected by cable to the Secretary-General on March 8 to the position of the United States as mediator in insisting that the White arbitral award of 1914 be accepted. Panama held it to be unacceptable. The League reply was confined to expressing satisfaction "that an honorable settlement of the dispute, in accordance with the spirit of the Covenant, is in sight."[3]

On March 7 an armistice was effected between Costa Rica and Panama, and on March 17 Secretary Hughes informed the Panaman Government that the White award should be respected. On August 24, the United States and Costa Rica announced the appointment of a commission of engineers to delimit the boundary. Panama refused to appoint a member.

Two subjects which have found Panama always in harmony with other Latin American delegations at Geneva have been budget quotas and the election of Council members. The delegate at the Third Assembly, Dr. Amador, chargé d'affaires in Paris, opposed the increase of the League budget, while the other delegate, Señor Antonio Burgos, minister at Rome and Bern, proposed that the permanent

[1] *Official Journal*, II, p. 218.
[2] *New York Times*, March 8, 1921.
[3] *Official Journal*, II, p. 219.

members of the Council be elected by the Assembly.[1] Señor Burgos alone represented Panama at the Fourth Assembly.

At the Fifth Assembly Panama urged its claim for a lower quota. The Government pointed out that, although the scale of the Universal Postal Union was adopted for the first two years, it was understood that, when the new scale entered into force, states overcharged under the old scale would be entitled to a retroactive refund. A subcommittee considered the request from the legal aspect and decided that, inasmuch as the claim was based solely on recommendations not resolutions, the League was not bound to repay budget contributions by any decision of the Assembly. The recommendation was that the claim be not entertained.[2] When the report was presented to the Fourth Committee, Señor Narciso Garay read a long memorandum, couched in rather forceful terms and not in every respect conciliatory. Certain personal references led the Secretary-General to state that he was not able to accept some of the statements of the delegate from Panama. The Uruguayan delegate, in a conciliatory manner, then proposed a resolution to the effect that the Secretariat be instructed to enter into negotiations with Panama for the purpose of seeking a solution. In making this proposal he called attention to the fact that the annual contributions might cease altogether if the question should be definitely decided against Panama. The proposal was defeated, 20 to 7. The committee finally adopted a solution which was unanimously adopted by the Assembly as a resolution on September 26, 1924, in these terms:[3]

The Assembly, being aware that it will be causing to one of the most devoted and most esteemed Members of the League a comprehensible disappointment, and being convinced, nevertheless, that its decision implies no injustice:

[1] *Records of the Third Assembly, Plenary Meetings*, p. 225.

[2] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 74 *ff.* (*Official Journal*, Spec. Sup. No. 27).

[3] *Resolutions and Recommendations adopted by the Fifth Assembly*, p. 34.

Decides not to entertain, in the present circumstances, the claim of Panama, which might, however, receive further consideration at some future Assembly.

This was indorsed by the Panama delegation [1] which brought the matter up the following year. The adjustment was finally made by a general distribution of prorated surplus to all Member states concerned.

The treaty signed on July 28, 1926, between the United States and Panama aroused opposition in the Panaman Congress. Art. XI of that treaty provided [2] that the "Republic of Panama will consider herself in a state of war in case of any war in which the United States should be a belligerent; and in order to render more effective the defense of the Canal will, if necessary in the opinion of the United States Government, turn over to the United States in all the territory of the Republic of Panama, during the period of actual or threatened hostilities, the control and operation of wireless and radio communications, aircraft, aviation centers and aerial navigation." It would also give the United States the authority to direct and control "all military operations in any part of the territory of the Republic of Panama" during actual or threatened hostilities. The treaty was not ratified by Panama.

Under Art. 12 of the Covenant, Panama agrees to submit to pacific settlement all disputes which might lead to a rupture, and in no case to resort to war until three months after a decision. According to the letter of the Covenant the treaty might conflict with it, but the United States occupies a special position in regard to the Canal, which it built and considers an essential to its national defense. This special relationship is analogous to the relationship of Great Britain to Egypt in regard to the Suez Canal. On November 19, 1924, Great Britain [3] announced to Members of the League that it would insist upon main-

[1] *Records of the Fifth Assembly, Plenary Meetings*, p. 171 (*Official Journal*, Spec. Sup. No. 23).

[2] Sen. Exec. Doc. B, 69th Cong., 2d sess.

[3] *Official Journal*, VI, p. 302.

taining "the special relations between Egypt and itself long recognized by other countries" and would regard as an unfriendly act "any attempt at interference in the affairs of Egypt."

At the Eighth Assembly the Panaman delegate, Dr. Eusebio A. Morales took the opportunity to explain the position of his country before the 11th plenary meeting. He pointed to the unique geographical position of Panama and gave assurance that the people of Panama were confident that the work of the League was sound and profitable. He argued the case against regional leagues and referred especially to "the mistaken idea that there is a single spirit representative of America" and to the illusion of "common continental interests."[1]

"The League of Nations, in the universal form in which it exists to-day," he said, "presents, as far as the weaker states are concerned an aspect the essential importance of which has not yet been fully realized — I mean the moral aspect, the influence of reason and justice in the formation of a stern world public opinion in the face of which arms and armies are impotent." He referred to the Assembly as "the only forum before which those in need of protection and support may proclaim their wrongs, confident that at least the opprobrium of humanity's silent censure may fall upon the oppressors." He suggested that the League inaugurate "the practice of inviting the Members of the League to meet in Geneva from time to time and explain, possibly without any definite intention of their discussion or settlement, circumstances and conditions which in any way influence their international life. . . . Panama desires to inaugurate this practice as a proof of her profound respect for the League, and as the best means of explaining certain facts which have been misrepresented in the press of various countries, in regard to the relations and links existing between Panama and the United States."

He outlined the situation and the controversy then existing between Panama and the United States. Regard-

[1] *Records of the Eighth Assembly, Plenary Meetings*, p. 100–103 (*Official Journal*, Spec. Sup. No. 54).

ing the treaty of 1926 he answered in the following manner the criticism that it violated the Covenant:[1]

During the discussion of this convention, Panama enjoyed full liberty of action, and, despite the fact that the negotiations took place between one of the most powerful and one of the weakest countries in the world, there was not the slightest tendency to impose onerous or humiliating conditions upon Panama. On the contrary, these negotiations were marked throughout by a spirit of mutual consideration and respect, a fact which, in itself, is deserving of mention so that it may be fully appreciated. . . .

There is, however, a serious question in regard to which no compromise is possible between the two Governments, because it can not be settled unless one of the parties changes its views wholly and completely and adopts the other's view.

The United States maintains that Panama has transferred to it its right of sovereignty over the Canal Zone, while Panama maintains that it has only granted to the United States such rights and authority as that country would possess if it were, in fact, the sovereign power, for the specific purpose of constructing, maintaining, operating, sanitating and protecting the Canal.

Panama takes the view that sovereignty does not consist of one right only but of many rights, and that accordingly it was within its power to grant the United States the right to administer justice, to maintain order, to sanitate and protect the Canal Zone, but neither in intention nor in fact did it grant to that country the whole of its sovereign rights. Sovereignty is too essential and important a thing to be transferred by implication. Although it may be argued that the sovereign rights retained by Panama over the Canal Zone are but a shadow, they are yet substantial enough to prevent the United States from having a legitimate claim or title to transfer the Canal Zone or the Canal itself to any other country, and this is sufficient to justify Panama in its view. . . .

As Panama sees it, [Art. XI] can have no other meaning than that, under its terms, it offers its assistance for the defense of a part of its own territory in which another country possesses vital interests. Panama maintains that it has not renounced or transferred to the United States the whole of its sovereign rights over the Canal Zone, and that, consequently, if the Panama Canal were attacked by any other country, it is the right and duty of Panama

[1] *Records of the Eighth Assembly, Plenary Meetings*, p. 102 (*Official Journal*, Spec. Sup. No. 54).

to defend it. This is a purely defensive provision to meet the eventuality of an attack on the Panama Canal involving the United States as a belligerent — an eventuality which we hope will never occur. It does not refer to a conflict involving Panama as one of the principal parties, in which case the Covenant of the League provides, in Arts. 12 and 13, as amended in 1921, the procedure to be followed for the settlement of the dispute before a final resort to war. On the contrary, it relates to the defense by Panama of its territory in the event of a war arising out of a dispute in which it is not directly involved.

Panama maintains, therefore, that, even if the treaty in regard to which negotiations are still proceeding at Washington should be finally approved and ratified, with the inclusion of the clause relating to her cooperation in the defense of the Canal, that treaty would not constitute any violation of the engagements she has contracted under the Covenant. In that event, however, the matter will be considered when the treaty is registered with the Secretariat of the League.

The United States has been accused of forcing Panama to accept this clause, but my Government solemnly declares this allegation to be false. The essential part of the clause was proposed by the Panama Government as a proof of solidarity with the United States in regard to the defense of the Canal and of its own territory, and was accepted by the latter country in a magnanimous spirit and with a clear comprehension of the intention underlying Panama's proposal.

Such is the explanation which my Government desires to give to the Assembly of the League of Nations, in order to define its attitude to the League and to serve as an authoritative statement regarding the development of its special relations with the United States.

Panama was represented at the Ninth Assembly by the minister at Paris. He called the attention of the Assembly to the fact that Panama was endeavoring to establish an international organization which will provide for an intellectual center for all the movements and ideals of the American continent as a means of diffusing culture and intellectual moral cooperation throughout the world. He appealed to the delegates to obtain universal free postage for books of an educational and scientific nature as well as

books exchanged between libraries. "I am sure," he said, "that such an institution will be regarded by the League as a means of supplementing its work and of encouraging the American nations to take a more active interest in its achievements. Our republics have many problems — economic, social and other — which differ in some respects from those which the League has hitherto solved; but all problems of an intellectual character the solution of which is undertaken at Geneva are of real interest to those American nations."[1]

Salvador

The relation of Salvador with the League has experienced a marked change. It was represented at the First Assembly by J. Gustavo Guerrero, minister to Spain and Italy. It then failed to send a delegation to the Second or Third Assembly, but has since been represented in each of the annual meetings.

During the first few years of the League, Salvador engaged in a delicate and at times embarrassing controversy regarding finance and certain of its legal phases. Successive postponements of the question prevented any definite decision having been made before the situation was righted in the natural course of events.

The minister of foreign affairs of Salvador on June 26, 1920, in a communication to the International Labor Office declared that, although his Government had acceded to the Covenant, it did not consider itself bound by the treaty of Versailles and hence not obligated by the provisions regarding the International Labor Organization.[2] The Labor Office on September 28, 1920, informed Salvador of its reasons for considering Salvador a member and therefore obliged to fulfill the obligations imposed by Part XIII of the treaty.[3] Salvador never replied to this communication.

[1] *Records of the Ninth Assembly, Plenary Meetings*, p. 52-53 (*Official Journal*, Spec. Sup. No. 64).

[2] *Records of the Third Assembly, Meetings of Committees, Minutes of the First Committee*, p. 102.

[3] *Industry, Governments and Labor* (World Peace Foundation, XI, Nos. 4–5, p. 36).

The Council considered the question of Salvador's contribution on September 2, 1921, and referred it to the Assembly which in turn referred it back to the Council. On January 14, 1922, the Council, taking note of the covenant of 1921, between Salvador, Guatemala and Honduras to form a union of Central America,[1] decided to postpone the matter until the Secretary-General would be able to present the necessary information on the subject.[2] On May 10, 1922, Salvador took exception to the inclusion of expenses for the International Labor Office in the budget of the League. Salvador had never questioned the right of the League to bear the expenses of the Labor Office and, although it was represented at the First Assembly when the legal relations between the League and the Labor Organization were considered, made no objection to the budget which was then unanimously adopted. The question was referred to the First Committee, which decided that the obligation to bear the expenses of the Labor Organization was a fundamental obligation of the League of Nations and hence was binding upon states which had acceded to the Covenant.

Salvador also objected to the expenses of the League which were not in the strict sense connected with the working of the Secretariat and urged that since the Covenant only mentioned that the expenses of the Secretariat should be allocated, all other expenses were thereby excluded. Salvador also claimed that the financial obligation had been imposed upon it "entirely without its participation." The committee decided against this claim and held that all Members were obligated to contribute to all the legally incurred expenses of the League. The report of the committee stressed the fact that no objection had been made at the First Assembly when the budgets had been approved. The Assembly merely referred this report to the Council without discussion. This same Assembly adopted the revised scale for the allocation of expenses

[1] League of Nations, *Treaty Series*, V, p. 10.

[2] *Official Journal*, III, p. 186.

which the special committee had proposed. This reduced the quota for Salvador to 1 unit and the next Assembly (Fourth, 1923) provided for an adjustment in favor of it and other countries. This apparently satisfied Salvador, which resumed attendance at the Fourth Assembly.

Although it has been represented by only one delegate and in each case by the same individual, he has progressively entered more and more actively in the proceedings of the Assembly. The advantages of sending the same delegates year after year are apparent and Señor Guerrero has become one of the most active and well-informed Latin Americans in the work of the League. He was the most active Central American delegate to the Seventh Assembly where he entered the committee discussions on the private manufacture of arms and ammunition. He spoke before the Assembly in favor of organizing the Council in accordance with the principle of the equality of states and called upon the leading states to renounce their permanent seats on the Council.

This Assembly elected Salvador as a nonpermanent member of the Council for one year.[1] Señor Guerrero was the representative during this service. He was rapporteur on the question of the Memel convention at the 42d session. At the 43d session he was rapporteur regarding the competence of the European Commission of the Danube and proposed the resolution, which was accepted by the Council, that the Permanent Court of International Justice be requested to give an advisory opinion on certain questions relative to the matter. He was also rapporteur on the various transit questions before the Council. At the 44th session he reported further on the railway questions, on identity documents for persons without nationality, on the Third General Conference on Communications and Transit and on the appointment of a commissioner intrusted with the duty of carrying out the provisions of Art. 107 of the treaty of Lausanne. At the 46th session he was rapporteur on communication with the League in

[1] *Records of the Seventh Assembly, Plenary Meetings*, p. 82 (*Official Journal*, Spec. Sup. No. 44).

Time of Crisis and the work of the Third General Conference on Communications and Transit.

At the Eighth Assembly Señor Guerrero again represented his country as the only delegate and again was the most active Central American. He was rapporteur on the question of the cost of living and adjustment of salaries. He was in favor of credits for the liaison with Latin America. He, of course, favored the program for codification of international law, being a member of the Committee of Experts. He supported the proposal to lend financial aid to states victims of aggression. At the Ninth Assembly Dr. Guerrero was the most active of the delegates attending from the Caribbean region. As rapporteur he proposed a draft resolution in regard to overcoming the obstacles which had prevented the holding of a conference on the private manufacture of arms so that it might be convened during 1929. He was rapporteur on the radiotelegraphic station for the League of Nations. He was also prominent in discussions of the First Committee on codification of international law.

At the Tenth Assembly, Señor Guerrero was elected president. His long experience had acquainted him fully both with the problems confronting the League and with the League machinery.

Salvador has established a special section in its ministry of foreign affairs with the special duty of conducting League of Nations matters.

Costa Rica

In the first five sessions of the Assembly, Costa Rica was represented by a single delegate — Manuel de Peralta, minister in Paris. With the exception of such questions as budget quotas, he took little part in the proceedings.

Costa Rica failed to make its annual contributions and the Fifth Assembly adopted a resolution on September 26, 1924, inviting the Secretary-General "to make further urgent representations to Costa Rica, Honduras, Nicaragua,

Peru and Bolivia" regarding their contributions in arrears.[1] On December 24, 1924, the Costa Rican minister in Paris notified the Secretary-General of the intention of his Government to withdraw from the League, effective January 1, 1925, so that it would cease to be a member on January 1, 1927.[2] He inclosed a remittance for $18,667.87 representing the quotas due for the years 1921 to 1925.

The Sixth Assembly adopted a resolution of regret at this action. The French delegate in presenting the resolution on September 22, 1925, said that "the settlement by the Assembly of what is purely an administrative matter led the Republic of Costa Rica to think that the League meant to offer it an affront."[3] Costa Rica ceased to be a member on January 1, 1926.

Señor Urrutia of Colombia as president of the 49th session of the Council suggested that Costa Rica be invited to reconsider its action. The Council authorized the president to communicate with Costa Rica and he forwarded a letter expressing the satisfaction which the members would feel if Costa Rica would reverse its decision and participate once more with the League.[4] On July 18, 1928, the Government of Costa Rica in a letter to the President of the Council pointed out that "the Government of Costa Rica desires, before deciding to accept the invitation . . . , to know the interpretation placed by the League of Nations on the Monroe doctrine and the scope given to that doctrine when it was included in Art. 21 of the Covenant."[5] The letter stated that Costa Rica "regards the noble aims pursued as worthy of support" and that it "would feel honored to cooperate" in the humanitarian and constructive work.

[1] *Records of the Fifth Assembly, Plenary Meetings*, p. 168 (*Official Journal*, Spec. Sup. No. 23).

[2] *Monthly Summary*, V, 1925, p. 8.

[3] *Records of the Sixth Assembly, Plenary Meetings*, p. 101 (*Official Journal*, Spec. Sup. No. 33).

[4] *Official Journal*, IX, p. 432.

[5] *Ibid.*, p. 1607.

On September 1, 1928, the president of the Council, then Hjalmar J. Procopé of Finland, forwarded a reply. This telegram said in part:[1]

> Art. 20 stipulates that "the Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof . . . " Art. 21 gives the states parties to international engagements the guaranty that the validity of such of these engagements as secure the maintenance of peace would not be affected by accession to the Covenant of the League of Nations. In declaring that such engagements are not deemed incompatible with any of the provisions of the Covenant, the article refers only to the relations of the Covenant with such engagements; it neither weakens nor limits any of the safeguards provided in the Covenant. . . .
>
> In regard to the scope of the engagements to which the article relates, it is clear that it can not have the effect of giving them a sanction or validity which they did not previously possess. It confines itself to referring to these engagements, such as they may exist, without attempting to define them: an attempt at definition being, in fact, liable to have the effect of restricting or enlarging their sphere of application. Such a task was not one for the authors of the Covenant; it only concerns the states having accepted *inter se* engagements of this kind.

Shortly thereafter the president of the Council received a telegram to the effect that on September 6, 1928, the Costa Rican council of ministers had agreed "to submit the matter [of resuming membership] to the Constitutional Congress, requesting it to vote the necessary funds for the payment of the contribution involved."[2]

On July 8, 1930, the Congress voted to leave the time and conditions of fresh entrance into the League to the discretion of President Gonzalez. The Congress by a vote of 29 to 11 voted an appropriation of $20,000 to meet quotas of the League budget when the President acts.

[1] *Official Journal*, IX, p. 1608.

[2] *Records of the Ninth Assembly, Plenary Meetings*, p. 130 (*Official Journal*, Spec. Sup. No. 64).

Haiti

Haiti has had a delegation at each session of the Assembly, a record of which only Cuba and Panama of the Caribbean area can also boast. With the exception of the First Assembly, where it had a full delegation, Haiti has been represented by a single delegate, in practically all cases the minister at Paris.

In the fourth plenary meeting of the Third Assembly the delegate from South Africa laid on the table a "Report of the Administrator of South-West Africa on the Bondelzwart Rising, 1922." He informed the Assembly that the Government of South Africa had appointed a special commission of investigation and inquiry and expressed the hope that judgment regarding charges made in the press against the officers and men engaged in suppressing the uprising would be suspended until its report could be published.[1]

At the seventh plenary meeting, Louis Dantes Bellegarde, the Haitian delegate, mounted the rostrum and, expressing hesitation in speaking because of "the modest position of the republic of Haiti in this Assembly," praised the League for the work which it was accomplishing. In concluding his address he called attention to the press reports of a punitive expedition against the Bondels Hottentots. He asked that the League, through the Permanent Mandates Commission, obtain all possible information and concluded: "That women and children should have been massacred in the name of the League of Nations and under its protection is an abominable outrage which we can not suffer."[2] He submitted a resolution that the Assembly express [3]

(*a*) Its profound satisfaction with the official statement made by Sir Edgar Walton, delegate for South Africa, that a full and im-

[1] *Records of the Third Assembly, Plenary Meetings*, p. 38.

[2] *Ibid.*, p. 76.

[3] *Ibid.*, p. 81.

partial inquiry will be made into all the facts of the Bondelzwart rebellion and its repression;

(*b*) The confident hope that the Permanent Mandates Commission, at its next session, will consider this question and be able to report that satisfactory conditions have been established; and that, in the meanwhile, the mandatory power will make every effort to relieve the suffering of the victims, particularly the women and children, and that it will insure protection and restitution of the remaining livestock, and, in general, the restoration of the economic life in the Bondelzwart district.

He later said before the Assembly that

It is for the good of the backward populations in the mandated territories, . . . and in order to raise the inhabitants to a consciousness of their dignity as human beings, that the League has instituted the mandate system and has undertaken to control the administration of these territories. We must, therefore, strive to administer the mandated territories in the best possible manner, and thus create an organization which may serve as an example to all colonial powers.[1]

Bellegarde urged both before the Sixth Committee and the Assembly that the inhabitants of mandated territories be given more direct means of transmitting petitions when they believed themselves to be victims of ill-treatment or injustice.

The Assembly, in adopting the Haitian resolution, concluded with the hope that the right of petition might be defined so as to insure that:[2]

(*a*) All petitions emanating from inhabitants of mandated areas will be sent to the Permanent Mandates Commission through the intermediary of the local administration and of the mandatory power;

(*b*) No petition concerning the welfare of the inhabitants of mandated areas emanating from other sources will be considered by the Permanent Mandates Commission before the mandatory power has had full opportunity of expressing its views.

[1] *Records of the Third Assembly, Plenary Meetings*, p. 155–156.

[2] *Ibid.*, p. 166.

The Haitian delegate to the Fourth Assembly said that it was as a result of M. Bellegarde's "vivid description of the situation in the Bondelzwart district" that the Assembly ordered an inquiry.[1] It certainly directed attention to a deplorable situation, served to focus public opinion and impress upon the mandatory states their international responsibilities. In July, 1923, the Permanent Mandates Commission considered the Bondelzwart rebellion at length in accordance with the resolution of the Assembly, and its conclusions were critical of the administration of the South-West African mandate.[2]

The Haitian delegate proposed to the Sixth Assembly that Members of the League be invited to undertake a revision of their histories "so as gradually to reduce the number of pages devoted to military events and especially those passages in which wars of conquest are justified and held up for admiration."[3]

The Records of the Eighth Assembly contain only a reference to the delegation of Haiti, while those of the Ninth contain a letter expressing Haiti's approval of the reeligibility of Spain on the Council, the delegate having been absent when the question was voted on.

Dominican Republic

The Dominican Republic was not a Member of the League of Nations until 1924. In a speech before the Fifth Assembly the delegate said: "The Dominican Republic, having reestablished its self-government,[4] considers that the first of its international duties is to take its place in the League of Nations as a fresh declaration of its intense desire to remain a completely independent sovereign state."[5]

[1] *Records of the Fourth Assembly, Plenary Meetings*, p. 91 (*Official Journal*, Spec. Sup. No. 13).

[2] See special report, *Official Journal*, IV, p. 1396.

[3] *Records of the Sixth Assembly, Plenary Meetings*, p. 88 (*Official Journal*, Spec. Sup. No. 33).

[4] By reason of the convention of June 12, 1924, with the United States (United States *Treaty Series*, No. 729).

[5] *Records of the Fifth Assembly, Plenary Meetings*, p. 186 (*Official Journal*, Spec. Sup. No. 23).

The republic has been represented in each of the following Assemblies by a single diplomatic agent, who has not taken an active part in the discussions. At the Seventh Assembly he voiced opposition to permanent seats on the Council. The *Records of the Eighth Assembly* merely list the delegation, while the only action recorded at the Ninth was an expression of the gratitude of the American delegations that Spain had resumed its place in the League. The delegation has invariably consisted of either the minister or chargé d'affaires in Paris, the latter being the permanent representative accredited to the League.

Guatemala

Guatemala has been rather inconstant in representation at the annual Assembly. It accredited a full delegation to the first in 1920 but sent no delegate to the Second, Fourth and Fifth Assemblies. At the others the delegation was less than the three representatives permitted. A Guatemalan diplomatic agent in Europe has generally represented his country. No reference occurs to participation in the discussions of the plenary sessions of the committees in 1926 or 1927. The Ninth Assembly records a Guatemalan letter expressing approval of the reeligibility of Spain to the Council, the delegate not being present when the matter was acted upon. Guatemala has named its minister at Paris as the representative accredited to the League.

Nicaragua

Nicaragua has been more or less sporadic in its participation. Although represented at the First Assembly by the chargé d'affaires in Paris, it failed to send a delegation to the Second, Third or Fourth Assemblies. Since that time it has had one or two delegates at each session. It has a permanent representative accredited to the League, who served as delegate at the Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Assemblies. In none did the delegation take any active part.

On August 31, 1929, Nicaragua owed for compounded arrears and for budget quotas from 1923 amounting to 203,364.21 Swiss francs.

Honduras

The rôle of Honduras in the League has been characterized more by nonparticipation than by participation. With the exception of the Fourth Assembly, where it was represented by the chargé d'affaires in Paris, it refrained from sending delegates until the Tenth Assembly, and has cooperated very little with Geneva.

On August 31, 1929, Honduras owed for compounded arrears and for budget quotas from 1923 amounting to 190,958.72 Swiss francs.

3. Summary

While 18 of the 20 Latin American republics have been Members, and 16 are still Members, only 13 actively cooperate in the League's work.

All the Latin American states were Members of the League at the First Assembly in 1920 with the exception of Ecuador, Mexico and the Dominican Republic, although the Argentine delegation withdrew December 6, 1920. At the Second Assembly six Latin American Member states were absent: Argentina, Guatemala, Honduras, Nicaragua, Peru and Salvador. The Fourth and Fifth Assemblies saw Bolivia join Argentina and Peru among the absentees from South America while at the Fifth Assembly Paraguay did not officially accredit its delegate until the 15th plenary meeting. Salvador returned to the Fourth Assembly while the Dominican Republic was admitted as a Member by the Fifth Assembly in 1924.

Argentina, Bolivia, Costa Rica, Guatemala, Honduras and Peru were not represented at the Sixth Assembly nor at the Extraordinary Session of March, 1926. From the Seventh Assembly one more South American nation, Brazil, absented itself while Guatemala was again represented.

The same nations were likewise absent from the Eighth Assembly, while Costa Rica had definitely withdrawn on January 1, 1927. On June 12, 1928, Brazil's withdrawal became effective, the first large state and the second American nation to withdraw. The Ninth Assembly found only five South American states represented, viz., Chile, Colombia, Paraguay, Uruguay and Venezuela, with five not participating. In the Caribbean region Mexico and Costa Rica were not Members while Honduras was not participating. With the exception of Cuba, the participating Governments of this region, however, have been generally represented at the Assemblies by a single delegate. The more constant participation of the Caribbean republics as compared with the South American republics in many cases has been counteracted by inactivity and by representation by single delegates who often remain away from meetings.

The Tenth Assembly in 1929, however, saw all Members of the League except the Argentine represented by delegations. Peru and Bolivia, although not previously participating, sent delegations, and Peru was elected as a nonpermanent member of the Council. Honduras also returned.

In regard to Latin American representation on the Council, Brazil occupied a nonpermanent seat during the first 40 sessions (January 16, 1920, to June 10, 1926). From 1923 to September 16, 1927, Uruguay was a nonpermanent member. Since 1926 Latin America has always been represented on the Council by three states. From the point of view of Latin American cooperation the adoption of that rule was important, although accompanied by the withdrawal of Brazil — the largest Latin American country. Chile, as a result of the rule, secured a three-year term in 1926, Salvador a one-year seat, while Colombia was reelected for two years at the same time. Cuba was elected for three years in 1927, Venezuela in 1928 and Peru by the Tenth Assembly in 1929.

The South Americans have consistently demanded a larger representation on the Secretariat. During recent

years there have been a few Latin Americans appointed to the Geneva staff.

The Latin American Member states have shown a desire to make the League a success. In the early days European problems growing out of the Great War occupied much time of the Council and the Assembly, which has since been directed more and more to world problems of a technical nature. In the early years the question of the Saar, Danzig problems, reconstruction of Austria and Hungary, repatriation of prisoners of war, Aaland Islands, the dispute between Poland and Lithuania, Upper Silesia, Greek refugees, mandates, etc., demanded the attention of the League; since Latin American states had little direct interest in them, Latin Americans were on that account in demand as rapporteurs on these problems. Matters of this type, however, arouse little public interest in Latin America except in a general way.

The absence from the agendas of questions of immediate interest to Latin America has been due in part to the fact that the group of states has not been concerned with many questions of pressing importance to the rest of the world. The reduction of armaments was of comparatively little interest to Latin American states. The conferences on communications and transit, the conference on simplification of customs formalities, the Economic and other conferences elicited no great amount of enthusiasm [1] because

[1] First Conference on Communications and Transit (1921), the following Latin American Governments were represented: Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Panama, Paraguay, Uruguay and Venezuela.

Second Conference on Communications and Transit (1923), Latin American Governments represented: Brazil, Chile, Colombia, Cuba, Salvador, Uruguay and Venezuela.

Third Conference on Communications and Transit (1927), Latin American Governments represented: Colombia, Cuba (Señor Agüero de Bethancourt, president), Ecuador, Nicaragua, Panama, Salvador, Uruguay and Venezuela.

Conference on Trade in Arms and Ammunitions (1925), Latin American Governments represented: Brazil, Chile, Colombia, Nicaragua, Panama, Salvador, Uruguay and Venezuela.

International Economic Conference (1927), Latin American Governments represented: Brazil, Chile, Colombia, Cuba, Guatemala, Nicaragua, Panama, Salvador, Uruguay and Venezuela.

International Conference for the Abolition of Import and Export Prohibitions and Restrictions (1927), Latin American Governments represented: Chile, Colombia and Cuba.

they did not cope with the immediate problems of American states, which on such subjects have held their own conferences under agendas adjusted to their own peculiar needs. The creation of the Permanent Court of International Justice, the Committee for Communications and Transit, the Permanent Health Organization, the International Institute of Intellectual Cooperation, etc., are of universal interest, and command a cooperation in Latin America quite comparable with that of other similarly developed countries.

Steps were taken in 1927 to bring about a closer cooperation between the League of Nations and Latin America. Members of the Secretariat visited Latin America in the mutual interests of the Health Organization and the states visited. The League's tendency since 1927 has been to give more and more attention to questions of world scope. This has been possible by the gradual elimination of problems growing out of the Great War. The increased participation of Latin American republics at the Assembly of 1929 was undoubtedly partially the result of these two factors.

IV. SPECIAL PHASES OF COOPERATION

THE cooperation of the South American countries through the League of Nations has been neither uniform nor universal. A number of the republics have evinced a sincere desire to further the work of the League within the limits of their capacity. They have not played a decisive rôle in its activities on account of their limited interests, yet the part they have taken has not lacked either dignity or importance. Their cooperation has been in some respects constant and loyal while in others it has been vacillating and uncertain.

In the preceding pages we have discussed in detail the activities of the respective countries. Here various subjects are treated either because they relate generally to the group of countries or require detailed examination.

1. Liaison Office

Liaison offices in connection with the League of Nations may be considered as of four types, each distinct in manner of appointment, in official relationship with the Secretariat and with Member states. These types are: (1) Suboffices of the League Secretariat; (2) Liaison offices of the Information Section; (3) Liaison Bureaus of Member states; and (4) the Latin American Liaison Bureau.

(1) The first type is referred to in League documents and in the early budget schedules as Liaison Offices but are now designated as Suboffices. The London and Paris Suboffices are the only examples. These were created on the initiative of the League, are financed from the League budget and to all intents and purposes are essentially branches of the Geneva Secretariat. Their purpose can be gathered from the statement of the Secretary-General to the Fourth Committee of the Third Assembly. He

explained that the Paris Office was important as a center of distribution, since, in view of the high postal rates in Switzerland, a large amount of Secretariat mail was dispatched from the permanent office at Paris. He also gave as a reason for its maintenance, economies in telegrams resulting from the use of the telephone between Geneva and Paris. Members of the Secretariat were often compelled to go to Paris to interview members of the Council, many of whom reside there. The importance of having official documents available for consultation was quite apparent.[1]

(2) The Liaison Offices of the Information Section are outposts of that section of the Secretariat for the gathering and dissemination of information. They are considered as branches of the section, the personnel being members of the Secretariat working in the field. One important task of such offices is the maintenance of close relations with the press. There are at present offices in London, Paris, Rome, Tokio and Berlin and correspondents in Budapest, the Hague, while one for Turkey is located in Geneva.[2] In recommending the creation of a Liaison Office in Tokio the Secretary-General said that its purpose would serve to keep the associations working for the League and the press in the various countries of the Far East supplied with reliable information concerning the work at Geneva.

(3) The third type of Liaison Bureaus are organized by states Members of the League in their respective capitals or at Geneva. The purpose of these bureaus is to provide for the coordination and the unification of relations between all the governmental services in their respective countries on the one hand, and the Secretariat, International Labor Office, the Council and the various commissions and conferences arising out of the League, on the other hand. These bureaus are financed by each country as part of a

[1] *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 66–67.

[2] *Official Journal*, IX, p. 1861–1862. A correspondent for China is contemplated.

governmental office, usually the ministry of foreign affairs, and act as channels of communication between the Secretariat of the League and the governmental departments concerned.

The existence of the League of Nations results in an almost continuous series of conferences and committee meetings at which Member and non-Member states find it advantageous to have representatives. As a consequence, many states, especially those geographically distant from Geneva, have found it convenient for the conduct of their international relations to make regular provision for representation at Geneva. This type of bureau was considered by the Second Committee of the Second Assembly, which recommended the establishment of similar offices in as many of the capital cities of the world as possible.[1] It pointed out the useful functions which such bureaus could perform and noted the resulting economies in personnel, time and labor. Greece was the first Member to create a permanent bureau accredited to the Secretariat. Its bureau was established in connection with the Greek legation at Paris on January 1, 1921.[2] The purposes of such representatives were described in a letter by the prime minister of Canada, Mr. MacKenzie King, to the Secretary-General on December 18, 1924. The Canadian Government had decided to create a permanent Dominion of Canada Advisory Office at Geneva "in order to establish and maintain as close relations as possible with the Secretariats of the League of Nations and the International Labor Office." Such an office would enable the Government of Canada to be continually informed "in regard to matters arising from time to time within the sphere of activities of such organizations . . . and generally to act in such matters in an advisory capacity to the Government of Canada and to the Canadian delegates to conferences, and should occasion require, to act as the Gov-

[1] *Records of the Second Assembly, Meetings of the Committees, Minutes of the Second Committee*, p. 180.

[2] *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 66, 67.

ernment might determine in substitution for a governmental delegate."[1]

There has been little uniformity in the rank of representatives accredited to the League. Some governments have accredited permanent representatives with the rank of ambassador, as for example, Brazil. Others have designated ministers, while still others have appointed a secretary attached to a diplomatic post in one of the European capitals, mostly Bern or Paris. The choice of title to designate a government's representative abroad is fundamentally an affair of each individual state and belongs primarily to the domain of constitutional law. Little significance attaches to the title of the permanent representatives at Geneva. A number of countries maintain a separate diplomatic post at Geneva with its own personnel, distinct from missions to Governments. This was true of Brazil before its withdrawal, and also of Poland, Canada and others. Other countries assign the functions to a special bureau in a legation at one of the European capitals, instances being the Colombian minister at Bern and the Paraguayan minister at Paris.

Diplomatic agents accredited to the League enjoy diplomatic privileges and immunities, although these are not granted by the League but are extended by the Swiss Government. The letter of credence is presented to the Secretariat, which accepts and officially notes it. This procedure is neither new nor novel, although it differs in some respects from that followed by a government in receiving a diplomatic agent of another state. It is essentially the procedure of international conferences. After the full powers of the delegates to a conference have been found to be in good form, the foreign office of the country in which the conference is held usually receives them and in turn grants diplomatic privileges and immunities to those entitled to them. This was true of the Portsmouth Conference where the Japanese and Russian plenipotentiaries possessed full powers to participate in the conference, while the immunities

[1] *Monthly Summary*, V, p. 7.

were necessarily granted by the United States Government in whose territory the conference was held. The only difference, therefore, in regard to diplomatic agents accredited to the League is that the element of permanency has been added. Instead of the privileges being granted for the duration of a particular conference, the diplomatic agents accredited to the League are granted immunities for the duration of their mission.

The Latin American countries which have accredited permanent representatives to the League are Argentina, Chile, Colombia, Cuba, Dominican Republic, Guatemala, Mexico, Nicaragua, Paraguay and Venezuela.[1] Brazil had an ambassador accredited to the League before its withdrawal.

Chile appointed Emilio Bello Codesido in April, 1925, as its permanent representative with the rank of ambassador.[2] Señor Codesido had held many prominent positions previous to his Geneva appointment, among which were minister of foreign affairs, president of the Council, temporarily Chief Executive authority in Chile, former member of Parliament and a delegate to the Pan American conferences.

In May, 1925, the Government of Argentina informed the Secretary-General that it had accredited Julian Enciso, first secretary of embassy, as its permanent representative to the League of Nations. The decree nominating Señor Enciso to the post stated that this appointment was made in view of the importance for the Argentine foreign ministry to obtain, through a diplomatic representative dealing exclusively with such questions, detailed and full information on all activities of the League of Nations.[3] Maintenance of the post has, however, been irregular.

Brazil had as its ambassador [4] at Geneva the eminent statesman Afranio do Mello-Franco, who had been deputy,

[1] *Nine Years of the League of Nations, 1920–28*, p. 19. (World Peace Foundation, XII, No. 1.)

[2] *Monthly Summary*, V, p. 107.

[3] *Ibid.*, p. 127.

[4] The rank was of advantage during his representation in the Council.

minister of foreign affairs, ambassador to Bolivia, president of the Brazilian delegation to the Fifth International Conference of American States at Santiago, and was a member of the Permanent Court of Arbitration.

Thus the A. B. C. states were all represented in Geneva at the same time by permanent representatives of high standing and wide experience.

(4) The fourth type of liaison bureau is unique in many respects. The Liaison Office of Latin America is the only one of its kind and is entirely different from any of the other types. The circumstances under which it was created throw light upon the whole problem of Latin American relationship with the institution at Geneva.

Latin American states have been in accord since the creation of the League in advocating greater national representation in the Secretariat and the International Labor Office, and greater effort to spread information in their countries concerning the League. In May, 1921, there were two Latin Americans in the Secretariat, a Uruguayan in the Mandate Section and a Peruvian in the Information Section, while a Brazilian was an administrative officer in the International Labor Office.[1] Señor Amador of Panama called the attention of the Fourth Committee of the Third Assembly to the fact that there was in the Secretariat at that time only one national of the numerous South American Members of the League.[2]

Delegates of Latin American states frequently declared during the First Assembly and the Barcelona Conference on Communications and Transit that it would be of great advantage if steps could be taken to facilitate the spread of League information in South America. They voiced a common conviction that something should be done to strengthen cooperation between the Secretariat and those republics to disseminate knowledge of the League's work throughout the various republics. This demand seemed to be somewhat unusual, as it amounted to asking the League

[1] *Official Journal*, II, p. 381–395, 398–404.

[2] *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 63.

to undertake propaganda work in its own behalf. In other countries this function was being performed by private organizations of interested citizens such as the League of Nations' Union in England, L'Association pour la Société des Nacions in France, and the League of Nations Association in the United States. In 1929 only Argentina, Chile, Cuba and Haiti had such societies.

The committee which inquired into the organization of the Secretariat in 1920–21 was of the opinion that the Governments concerned and the Secretary-General should consider the form which the proposed relations should take, especially in view of the great distance which separates South America and Geneva. In order to obtain the necessary data, the Secretary-General decided to send two members of the Secretariat to South America. Their duties were to obtain from the various Governments which they visited, facts and views as to the best method of distributing information in Latin America concerning the League and as to the possibility of establishing an information bureau of the Secretariat there for the purpose. They were also instructed to place themselves at the disposal of the various Governments regarding any League business.[1]

The matter was taken up in the Second Assembly, although nothing definite could be done regarding actual organization before the report of the League mission was received. The Committee of Experts on Organization of the Secretariat recommended that a special branch should be attached to one of the central sections of the Secretariat to deal with all matters concerning Latin America. The staff should be drawn from Latin American states, a greater number of whose nationals should be employed in the Secretariat.[2] Sir Herbert B. Ames, financial director of the League, urged before the Fourth Committee of the Second Assembly the establishment of a Liaison Office on economic grounds, particularly the great saving to be made in cable tolls. He stated that one of the last cablegrams had cost

[1] *Monthly Summary*, I, p. 65.

[2] *Records of the Second Assembly, Meetings of the Committees, Minutes of the Second Committee*, p. 221.

15,000 francs, 70% of which was for Latin American countries. Prince di Scalea of Italy urged the establishment of an office for political and moral reasons. "Such offices", he said, "would help to give the League that political force which would enable it to guide public opinion in all countries." M. Noblemaire of France favored the proposal on account of its moral influence. "Latin America," he said, "complained of being out of touch with the League and the project might result in prompter payment of certain contributions which were overdue."[1] M. Adatci of Japan begged the committee to consider the serious results of an unfavorable vote. The committee favored establishing an office in Latin America by a vote of 14 to 3. The Assembly approved the report and provided 53,065 Swiss francs in its 1922 budget for a "South American office which was to be organized."[2]

The Secretary-General submitted a memorandum to the Council which was approved May 11, 1922.[3] He pointed out the results of the journey undertaken in 1921 by the two members of the Secretariat. He was not able to make a definite recommendation as to the seat of the office. However, it was essential to give effect as soon as possible to the spirit of the Assembly's decision by making an effort to improve the liaison between the central organizations of the League and the states of Latin America. He, therefore, proposed to set up a small office immediately at Geneva, the members of which would be chosen by the Secretary-General from nationals of Latin American states. The appointments would have a provisional character and would terminate at the expiration of one year, so that the Third Assembly would remain free finally to fix the seat of the office.

The Secretary-General in his report to the Third Assembly stated that the correspondence that had followed the action of the Council on May 11, 1922, between the Secretary-General and the representatives of some states

[1] *Records of the Second Assembly, Meetings of the Committees*, II, p. 65.

[2] *Official Journal*, II, p. 1048.

[3] *Ibid.*, III, p. 559.

showed that, although there was the greatest sympathy for the scheme, there was no general desire that appointments should be made immediately. He therefore decided to wait for the Third Assembly in order that the representatives of all of the Latin American states might be consulted on this matter, in which they were so much concerned.[1]

Señor Zumeta of Venezuela, in reply to the chairman of the Second Committee, stated that, "in view of the difficulty of choosing between the 19 states of Latin America, it had been judged by the mission that it would be more efficient and economical if a Liaison Office were established in Geneva. The decision of this question had been left to a committee formed by the various delegates of the Latin American states represented at the Third Assembly. This committee had agreed that two delegates of two Latin American states should each year form part of the staff of this office, returning afterward to South America to act as liaison officers. This system of rotation would allow all of the Latin American republics to be represented within a period of seven years."[2] He, therefore, proposed on behalf of the Latin American Republics represented at the Third Assembly that Item 6 (*b*) 3 "South American Office (53,065 francs)" and the estimate in Item 3 (*c*) "South American office salaries, wages, etc. (44,650 francs)" should be suppressed and replaced by a single Item, "Liaison Office with Latin America (97,715 francs)."[3]

M. Reveillaud of France supported M. Zumeta's proposal. In doing so he noted that "instead of the office in Latin America provided for by the Second Assembly, it was now proposed to create at Geneva a center of instruction for young men from the various states of Latin America. Nothing could be more useful than this excellent method of meeting the criticism that the general public in Latin America was not conversant with the activities of the League."[4] M. Modzelewski of Poland agreed with the

[1] *Records of the Third Assembly, Plenary Meetings, II*, p. 92.

[2] *Ibid., Meetings of the Committees, Minutes of the Fourth Committee* ,p. 66.

[3] *Ibid.*, p. 68.

[4] *Ibid.*, p. 67.

French delegate, remarking that the course proposed would to some extent meet the complaint that Latin America was not sufficiently represented on the Secretariat. Colonel Ward of the British Empire pointed out that the decision of the Supervisory Commission had apparently been to create a branch office in Latin America but that the proposal was of a totally different character.[1] The Secretary-General explained that the mission had been unable to recommend a definite site for the office. In view of the difficulties of communication in Latin America, the mission had recommended that it would be desirable to establish an office in Geneva. Without further discussion, the committee adopted the item, with a modification proposed by M. Zumeta reducing the total to 74,000 francs.

The Third Assembly approved the report of the Fourth Committee that "upon the proposal of all delegations of the Central and South American countries, . . . the Liaison Office with Central and South America should be established in Geneva and not in America. The adoption of a roster would enable the republics in Central and South America to be represented by officials of each nation in turn."[2]

The establishment of an office of this character was, therefore, not the result of League action but of the interested states themselves. While its purpose was to be entirely different from the London or the Paris offices, it belonged to the same general category and was to be established by the League, financed from the League budget, and really a part of the Secretariat. Instead of serving as an administrative branch of the Secretariat, it was to be a training school for young Latin Americans, who, upon the completion of their apprenticeship would return to their home lands to tell of the institution. This, then, was the method chosen by the Latin Americans to combat the lethargy of their publics regarding the League and its activities. Though it was out of keeping with the League

[1] *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 67.

[2] *Ibid., Plenary Meetings*, II, p. 220.

idea of not conducting propaganda, the plan afforded an opportunity to meet a desire for greater American representation on the staff of the Secretariat and the International Labor Office when appropriate candidates were put forward.

Venezuela and Panama were first chosen by the Latin American states to propose nationals to the Secretary-General as members of the Office, and Manuel Arocha of Venezuela and Cristobal Rodriguez of Panama were appointed for two years. They were assisted by Julian Nogueira, a Latin American member of the Information Section. The bureau started work January, 1923, under regulations approved by the Secretary-General.

The Report to the Fourth Assembly on the work of the Secretariat [1] noted that the Secretary-General had made a practice of consulting the bureau on any question of interest to the Latin American countries and on all such matters the various sections of the Secretariat had invited its cooperation and aid. The bureau had "by means of personal communications assisted the Secretariat in keeping the Governments informed of the progress of such questions as unfair competition, the traffic in opium, amendments to the Covenant, disarmament and the treaty of mutual guaranty. It has given practical attention to the work of the technical organizations of the League, obtaining by similar methods, information concerning epidemiological conditions in Latin America, facilitating the association of Latin American doctors and the interchange of public health officers to be held in the United States in the autumn of 1923, and helping the cooperation of the Latin American Governments in the International Customs Conference to be held in Geneva in October next and in the work of the Organization for Communications and Transit."

The report continued that "the bureau has aided the Information Section of the Secretariat to keep in touch with events and with public opinion in the Latin American countries and to spread information in these countries on

[1] *Records of the Fourth Assembly, Plenary Meetings*, p. 322 (*Official Journal*, Spec. Sup. No. 13).

the work of the representatives of Latin America on the Council and on the various committees of the League. . . . The bureau has also placed itself at the disposal of the Latin American diplomatists accredited in Europe and the United States for the purpose of supplying information regarding the work of the League, and it has, with the same end in view, entered into correspondence with the universities, chambers of commerce, academies and similar institutions in Latin America." The bureau had arranged for a Spanish edition of the *Monthly Summary* to be specially prepared in order to emphasize matters of particular interest to the Latin American countries. The work of the bureau had been of great value to the Secretariat, and the Secretary-General had every reason to believe that it had also been appreciated by the Governments of the Latin American states.

The Fourth Assembly passed a resolution September 28, 1923, intrusting the Secretary-General with the task of studying a scheme for reorganization of the Latin American Bureau, and requesting him to submit the draft to the Members of the League so that the Fifth Assembly might be able to take action. The Assembly noted that the development of this bureau offered an effective means of reinforcing an essential liaison between the governments and the central organs of the League of Nations.

On the same day the Latin American delegates sent a letter to the Secretary-General in which they gave the principles which the delegates had agreed upon as a possible basis for reorganization. This plan was signed by delegates from Brazil, Chile, Colombia, Costa Rica, Cuba, Haiti, Panama, Honduras, Paraguay, Uruguay, Salvador and Venezuela and contained the following provisions:[1]

1. A new Under-Secretary-General, a native of Latin America, will be appointed; his duties, in addition to those assigned to him by the Secretary-General, will be to direct the Latin American Bureau.

[1] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 323 (*Official Journal*, Spec. Sup. No. 27).

2. The number of members of the bureau will be increased from two to three, appointed for three years; subsequent vacancies will be filled each year, so that the strength of the bureau will never be less than three.

3. Considering that there should be a Latin American member in the principal sections of the Secretariat, the delegates of the Latin American states hope that, as vacancies arise in the sections, the Secretary-General will endeavor to fill them by appointing nationals of the Latin American countries, possessing the necessary qualifications, that he will give the preference when filling vacant posts to the members of the Latin American Bureau and that he will, so far as possible, insure fair representation to the various Latin American countries.

4. As soon as the permanent Secretariat contains a fair proportion of Latin American members, the question of maintaining or reorganizing the bureau will be considered.

They also recommended that the present members of the Latin American Bureau be appointed for a term of three years.

The work accomplished by the Latin American Bureau during the first two years of its existence falls into two parts. The first was the work of confidential and personal contact, the object of which was to strengthen the bonds between persons in Latin America and the Secretariat so as to achieve a better mutual understanding, to exchange information and to give such explanations as were necessary in order to facilitate the common task. It was also to acquaint the people of Latin America with the work of the League and to keep the League in touch with the aspirations of the Latin American countries. The Secretary-General noted in his report to the Assembly that the bureau "has been very highly appreciated by the Secretary-General and the Secretariat of the League who have more than once had occasion to note the excellent results achieved."[1]

The second task was that of collaboration with the technical sections of the Secretariat. The bureau was able to spread its activity to all its sections, so far as concerned

[1] *Records of the Fifth Assembly, Plenary Meetings*, p. 380–381 (*Official Journal*, Spec. Sup. No. 23).

their relations with governments, with public and semi-public institutions and with individuals in Latin America. The members of the bureau, in accordance with rules approved by the Secretary-General, are consulted in regard to all communications to or from Latin America.

The Secretary-General pointed out in his report to the 1924 Assembly that "the bureau has made particular efforts to assist the section of the Secretariat which deals with intellectual cooperation, having regard to the importance which the Latin American countries attach to these questions. The bureau has obtained the collaboration of several of these countries, which have sent valuable information on the present position in regard to intellectual, educational and legal developments and the progress of natural sciences, and the bureau has received assurances that similar information will be regularly supplied in future." The activity of the bureau was particularly effective as regards the statistical publications of the Economic and Financial Sections.[1] The report noted that the bureau had obtained epidemiological information, for the regular publications of the Health Section. This section also had taken the suggestions of the bureau in securing the collaboration of doctors in interchanges of the health staffs, and 15 Latin American doctors had already taken part in them. Through the efforts of the bureau the regular sale of League publications had been organized in the Latin American countries and agencies had been established in the greater number of them. An example of the usefulness of the bureau was given by M. Reveillaud, chairman of the Committee on the Allocation of Expenses, during the debate in the Fourth Committee.

> Thus, after it had made numerous unsuccessful endeavors to obtain the budgets of the Latin American states, the Committee on the Allocation of Expenses had had the happy idea of applying to that office. Within a remarkably short space of time — less than two months — the office had supplied it with ten budgets.

[1] *Records of the Fifth Assembly, Plenary Meetings*, p. 380–381 (*Official Journal*, Spec. Sup. No. 23).

This was a noteworthy indication and he had particular pleasure in thus bearing witness in the presence of the Fourth Committee to the value of the Latin American office.[1]

A memorandum submitted to the Fifth Assembly gives the attitude of the Secretary-General regarding reorganization of the bureau in connection with the letter of September 28, 1923. Originally the chief function of the bureau had been to create particular facilities of liaison between the Latin American states, Members of the League, and the Secretariat. When it was finally determined that the seat should be at Geneva, a main consideration was that members of the bureau, after having spent two years in the Secretariat, would return to their several countries and that therefore, by degrees, the various Latin American states would have at their disposal men who were accustomed to the work of the Secretariat and who had a full comprehension of the various activities of the League. "As the greater part of the permanent members of the Secretariat had, by an Assembly decision, received contracts for a considerable period, it was then unlikely that within the next few years there would be more than a small number of vacancies occurring in the Secretariat and therefore it would hardly be practicable to insure for some time to come the presence of an adequate number of nationals of the Latin American states on its permanent staff. During this period the creation of the bureau would at any rate enable the different Latin American states, members of the League, to have in turn a national on the League Secretariat."[2] He was in accord with the views indicated by the Latin American delegates that vacancies in the Secretariat should be filled by nationals of Latin America in so far as possible, but he doubted whether citizens of the Latin American countries should receive preferential rights regarding such vacancies. The memorandum continued:[3]

[1] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 30 (*Official Journal*, Spec. Sup. No. 27).

[2] *Ibid.*, p. 319.

[3] *Ibid.*, p. 322.

The Secretary-General is strongly of opinion that the appointment of an Under-Secretary-General from a Latin American state would be in the general interests, not only of the Secretariat but of the League as a whole . . . [But he] is inclined to doubt whether an immediate appointment would really be the most advantageous. The possibility, which the Secretary-General hopes may arise, of closer cooperation by the Government of the Argentine with the work of the League and of the entrance into the League of further Latin American states, would appear to deserve attention in contemplating changes of a radical nature in the relations of the Secretariat with Latin American countries. Moreover, additional pressure of work on the Secretariat resulting from increased membership of the League might easily make certain internal rearrangements imperative. In any case, it seems probable that, in the not too-distant future, events may necessitate a considerable reorganization of the higher posts in the Secretariat. It will be realized that it is in connection with such a reorganization that the appointment of a new Under-Secretary-General could most easily be made.

There is one further consideration to which, though it will certainly not have escaped the notice of the Assembly, the Secretary-General nevertheless ventures to draw attention. If and when the Assembly decides upon the appointment of an Under-Secretary-General of Latin American nationality, it will be understood — in conformity with the principle whereby all members of the Secretariat are, under the Secretary-General, responsible to the Council and the Assembly of the League as a whole and not to the Governments of their respective countries — that this decision is taken in the general interests of the League and not in the particular interests of Latin American countries. The Assembly will consequently realize that the first duty of the Secretary-General when called upon to give effect to the decision envisaged above, will be to assign to the new Under-Secretary-General a sphere of work of an international character fully commensurate with the importance of the post. The letter of the Latin American delegates recognizes . . . that the direction of the Latin American Bureau, even reformed along the lines proposed, would not in itself be a sufficient responsibility for an official of the rank of Under-Secretary-General, especially in view of the possible provisional nature of the bureau to which attention is called in the fourth principle set forth in the letter. . . . Consequently, until circumstances make possible the internal reorganization to which reference has been made, the definition of the functions which the new Under-Secretary-General

might properly be called upon to discharge would evidently present appreciable difficulties.

The question of reorganization of the Latin American Bureau was considered by Subcommittee E of the Fourth Committee.[1] The report of the Fourth Committee to the Assembly [2] noted that Latin America could not be accorded exceptional treatment and stated that:

> The principle of equality, which should be and is the basis of all our work and discussions, must also be applied to the present question. It is, therefore, essential that the nationals of Latin America should as soon as possible be brought . . . under the general law, and that they should be distributed among the sections, taking their share in all the branches of the Secretariat's work. The committee fully realizes that, apart from official and diplomatic relations — which have their regular mediums in the permanent representative bodies at Geneva, the diplomatic missions in the various capitals, and the foreign offices or ministries of foreign affairs, — the members of the Secretariat constitute natural and in many cases valuable, if unofficial, links between their own countries and the organization which they serve. Latin America also should therefore be brought into line with this system as soon as possible. The committee realized, however, that this change could not be made immediately. A period of transition would have to be allowed in order to pass from the position which we have called an exceptional one to a desirable and normal condition of affairs.

The Fifth Assembly adopted a plan for such a transitional reorganization, as recommended by the Fourth Committee in the following resolution of September 29, 1924: [3]

> 1. The number of members of the Latin American Bureau shall be increased from two to three.
>
> 2. The term of service of the members of this bureau shall be increased from two to three years.

[1] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 62 (*Official Journal*, Spec. Sup. No. 27).

[2] *Ibid.*, p. 318.

[3] *Ibid., Plenary Meetings*, p. 185 (*Official Journal*, Spec. Sup. No. 23).

3. The Secretary-General shall, when vacancies occur in the general services of the Secretariat, endeavor to secure more appropriate representation for the Latin American states, provided always that the candidates for these posts possess the necessary qualifications.

4. It is understood that the Latin American Bureau, which was constituted in order to meet particular exigencies must not be regarded as a permanent organization. It is desirable that nationals of Latin American countries should be admitted as permanent members in such a way that one of these nationals shall be appointed in each section of the Secretariat.

5. In order that the above scheme may be carried out as rapidly as possible, the Secretary-General shall have power to substitute, upon their expiration or even previously, for the contracts of officials of the Latin American Bureau, contracts as permanent members of section, utilizing for this purpose the funds allocated to the Latin American Bureau, or, if the Bureau cease to exist, a special credit to the same amount, which shall be duly allocated.

The Report to the Sixth Assembly on the work of the Council and the Secretariat noted that the bureau had become a regular and normal part of the Secretariat and it was no longer considered necessary to describe it separately.[1] The budget in Chapter II, Item 6, provided 116,072 gold francs for the Latin American Liaison Office.[2]

This, however, did not silence the Latin Americans in their demand for a larger representation on the permanent staff. M. Barboza Carneiro of Brazil pointed out before the Fourth Committee of the Sixth Assembly the discrepancy between Latin American representation and that of other nations. He said that his appeal, every time credits for the Latin American Office came up for discussion, was assuming the character of a *leit-motiv*. He had explicit instructions to call the attention of the committee to the situation regarding the proportion of Latin American nationals employed in the Secretariat and the International

[1] *Records of the Sixth Assembly, Plenary Meetings*, p. 340 (*Official Journal*, Spec. Sup. No. 33).

[2] *Ibid., Meetings of the Committees, Minutes of the Fourth Committee*, p. 19–20 (*Official Journal*, Spec. Sup. No. 37).

Labor Office.[1] In a comparison between the contributions made by that group of states and the amount paid for salaries of Latin American officials, he noted that Latin America was paying to the League annually 3,271,495 Swiss francs of which only 4.6% went as payment of salaries for the eight officials who were its nationals (150,700 Swiss francs). He contrasted these figures with those of other countries. He said there were ten Austrian nationals in the League offices, receiving an annual total salary of 139,509 francs, or 576% of the states contribution. Great Britain paid annually 2,132,530 francs; 204 officials of British nationality received 2,949,164 francs, or 133% of that contribution. France contributed 1,890,197 francs, while French officials received 2,317,039, or 122% of the country's quota. The Brazilian urged that the Secretary-General should give an assurance that no appointments would be made in the future without the Governments of the Latin American republics being notified that there was a vacancy. He stated that this had become a very serious matter and he felt sure that he was expressing the opinion of the other republics.[2]

The Secretary-General in reply noted that the provision for posts in the Secretariat had been a serious problem for some time. "The Liaison Office," he said, "had been created with the double purpose of strengthening the contact with those distant countries and at the same time serving as a kind of training school where Latin Americans might gain such experience of the activities of the League as might qualify them in due course for permanent appointments in the Secretariat."[3] He stressed the point that members on the Secretariat were not representatives of the Member states and noted the danger of gauging appointments according to contribution. He then noted that two Latin Americans had been added to the staff the previous

[1] *Records of the Sixth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 19 (*Official Journal*, Spec. Sup. No. 37).

[2] *Ibid.*, p. 20.

[3] *Ibid.*, p. 20–21.

year, — a Chilean to the Health Section and a Colombian to the Latin American Bureau.

A proposal to limit the appointing power of the Secretary-General was defeated in the Fourth Committee, which did approve the proposal that members of the Latin American Office should be eligible for renewal after the expiration of their term of office.[1]

The question was again considered at the Seventh Assembly. In the Fourth Committee there appeared a difference of opinion among the Latin Americans themselves. Señor Zumeta of Venezuela declared that Señores Guerrero, Urrutia and Villegas were the authorized spokesmen for eleven of the Latin American delegations to consider how arrangements for this service could be adapted to the requirements of liaison between the Secretariat and each of those countries individually.

This was objected to by Señor Fernandez y Medina of Uruguay on the ground that the League could contain no group or organization calling itself "Latin American group." Such a group, he said, could never be recognized by the League. Since the Members were sovereign states, no group or entente could be formed except by a formal agreement among the Governments concerned. Such conversations as took place between delegates when they met in Geneva were friendly interviews which did not confer on anyone the right to speak on behalf of others on questions affecting the organization of the budget of the League. It was the representatives of the individual states who must be consulted. This, he emphasized, was a constitutional principle which could not be ignored. He said the Government of Uruguay considered that the existence of a Latin American Liaison Bureau was incompatible with the conception of the Secretariat of the League. If the bureau were retained, it should be noted that Uruguay was opposed thereto. He argued with much force for the respect due to the right of the Secretary-General to be entirely free

[1] *Records of the Sixth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 253 (*Official Journal*, Spec. Sup. No. 37).

from interference in the selection of the staff.[1] Señor Zumeta agreed that the Latin American Bureau should be suppressed, the Secretary-General to use his discretion in regard to the matter. Upon the suggestion of the Japanese delegate, the item was changed to "Latin American Liaison Service" in place of "Latin American Liaison Bureau." The heading finally accepted and recommended to the Assembly was "Liaison with Latin America." In 1927 C. Rodriguez, of Panama, was permanently assigned to "Liaison with Latin America."[2]

There was likewise recommended a credit of 30,000 francs for "technical investigations to be undertaken in Latin America," in recognition of the advantages to be derived from interesting those countries more directly in the technical activities of the League. The expenditure for the "Liaison with Latin America" was 101,691 Swiss francs in 1927 and 128,618 in 1928, while the estimate in the budget for 1929 was 220,185 and 321,162 for 1930.[3] The later figures included 100,000 francs for technical investigations in Latin America by the Health Committee in 1929 and 200,000 in 1930.

The Latin American Bureau was thus freed of its anomalous character and gradually incorporated into the permanent Secretariat. It developed from a training school for Latin American nationals into an office with a permanent staff of three persons, the chief purpose of which is to deal with problems affecting Latin America and with correspondents of its own. In this form it will undoubtedly continue to serve a useful purpose in harmony with the whole League organization.

2. Participation in Conventions

Altogether, the machinery of the League of Nations has produced in 10 years nearly 100 multilateral conventions in addition to many protocols, treaties and conventions for

[1] *Records of the Seventh Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 24–25 (*Official Journal*, Spec. Sup. No. 48).

[2] *Official Journal*, VIII, p. 422.

[3] *Ibid.*, X. p. 1340.

such specific purposes as the reconstruction of Austria, the protection of minorities or sanitary organization. Some of these documents, though of genuine international importance, on the face of them have little or no interest for the Latin American states, an instance being the agreement for the preparation of a transport card for emigrants of June 14, 1929. The Latin American interest in the migration of population is immigration rather than emigration. Other questions such as the convention of April 20, 1921, on the régime of navigable waterways of international concern may have slight interest to countries without waterways and those without shipping interests. There are, consequently, many reasons why Latin American states should be relatively less interested in intrinsically important conventions than some other states.

Nevertheless, Latin American states as a group often disregard legal precision with respect to international agreements. Costa Rica, for instance, promptly signed the Protocol of Signature of the Statute of the Permanent Court of International Justice and its optional clause in 1921 and nine years later had not ratified. Many other instances of such delays could be cited. Latin American states are generally slow in such matters, partly due to the fact that many of them have only biennial sessions of the congress whose approval is required. However, Latin American states very frequently follow the terms of agreements which they have signed without formal action. This habit accounts in part for the large discrepancy which exists between the signatures which they affix to conventions and the ratifications which they deposit.

With these considerations in mind, it should nevertheless be understood that states have many reasons to debate concerning the value of international engagements to themselves, and no general conclusion should be drawn respecting the inaction of a state in any particular case until examination of the circumstances has been made.

The amount of action taken by the various Governments on proposed amendments to the Covenant is interesting

because the Latin American nations were not entirely pleased with the original draft and favored bringing the League more nearly in harmony with their theory of "equality of states."

The protocol of amendment to Art. 4 of the Covenant (increasing the elective members of the Council) was ratified by 38 states, only seven of which were Latin American. Brazil, Cuba, Haiti, Salvador, Uruguay and Venezuela were the only American states to take the required constitutional action before the amendment went into force on July 29, 1926, Chile having ratified on August 1, 1928.[1] Due to the membership of Brazil and Uruguay on the Council it was necessary for them to take official action before the amendment could be made an integral part of the Covenant. That responsibility probably hastened their action. The amendment to Art. 6 (giving the Assembly control over budget quotas) was ratified by only the two American Governments on the Council before it came into force August 13, 1924, with a total of 36 ratifications. The Brazilian ratification brought it into force. Later Chile, Salvador and Venezuela ratified it.

On September 26, 1924, the amendments to Arts. 13 and 15 (including the judicial method in the forms of pacific settlement) were made a part of the Covenant. Of the 34 ratifications only the Governments of Brazil, Cuba and Uruguay were included. Chile, Haiti and Venezuela ratified each of them after they were in force.

In the 1929 Assembly Great Britain and Peru proposed changes in these articles to bring them into harmony with the general treaty for renunciation of war (pact of Paris). The Peruvian representative, Mariano H. Cornejo, presented a definite proposal to the Council and as a member of the Committee to study the question of amending the Covenant took an active part in developing the proposed changes.

Regarding amendments which have not yet been ratified by a sufficient number of states to make them a part of the

[1] The details are derived from the list published by the Secretariat of the League, the latest available one being in *Official Journal*, X, p. 1773.

Covenant, the same situation prevailed. The six protocols for amending Art. 16 (economic sanctions) have been ratified by Brazil, Chile and Uruguay, all of which have been on the Council. The protocol which was passed by the Fifth Assembly had been ratified by only Salvador, while only Chile had ratified the protocol adopted by the Sixth Assembly in 1925. Art. 26 determines the method of amending the Covenant. It received no more attention from the Latin American Governments. Brazil, Chile, Cuba, Haiti, Uruguay and Venezuela had ratified the three amendments to the article when a total of 35 ratifications were on file at the Secretariat. Protocol 13 providing for the addition of a new paragraph to Art. 26 received favorable action by the same Governments.

The amendment to Art. 393 of the treaty of Versailles concerning the composition of the Governing Body of the International Labor Office was ratified by Cuba on September 7, 1925, by Haiti on November 2, 1925, by Uruguay on April 28, 1928, by Salvador on May 4, 1928, and by Chile on August 1, 1928.

We therefore see that the majority of Latin American states have not taken official action regarding change of the Covenant. All of them, however, which were represented at the Assemblies which passed the protocols for amendments, voted in favor of them. Since none of these countries has refused to be bound by the amendments in force, we can assume that the reason for nonratification was not opposition to the amendments but simply governmental lethargy. The American states have repeatedly advocated changes in the League organization and have urged further democratization of the institution. They have limited themselves to an expression of a desire rather than developed a sufficiently deep interest to prompt affirmative action.

In addition to amendments to the Covenant, the Permanent Court of International Justice may be assumed to have a general interest for all Latin American states. The Protocol of Signature covering its Statute has been ratified

by Brazil, Chile, Cuba, Haiti, Panama, Uruguay and Venezuela; it has been signed but not ratified by Bolivia, Colombia, Costa Rica, the Dominican Republic, Guatemala, Nicaragua, Paraguay, Peru and Salvador. Nicaragua and Peru signed it only in September, 1929, but several of the other signatures had been affixed as early as 1921. The so-called optional clause, by which a state confers upon the Court a compulsory jurisdiction, is binding upon Brazil, Haiti, Panama and Uruguay only among the American states. Brazil completed all the formalities in November, 1921, but it was not until February 5, 1930, that an attached condition was realized. This condition was that the clause became binding for Brazil when it had been accepted by two permanent members of the Council. The clause has been signed by Costa Rica, the Dominican Republic, Guatemala, Nicaragua, Peru and Salvador.

The other conventions made under the auspices of the League have been of varying importance to Latin America, as may be observed by the following notes.

Of the 26 international labor conventions, none had been ratified before 1929 by any Latin American nation except Cuba, which had ratified 16, and Chile, which had approved eight.[1]

There have been nine conventions concluded on the subject of communications and transit. Although some Latin American countries signed each of them (Chile and Uruguay signed all nine), none has been ratified except by Chile, which is bound by four. By way of comparison, the convention on freedom of transit had been ratified by 24 nations prior to December, 1929, only one of which was Latin American.[2]

The record concerning the protocol on arbitration clauses in commercial matters showed that only seven Latin American countries signed, while none of the 20 ratifications was by them.

[1] *Official Journal*, X, p. 1774.

[2] *Ibid.*, p. 1783.

The convention concerning obscene publications has been ratified by none; the one on supervision of international trade in arms and munitions by Venezuela; while the one on customs formalities has not received any ratifications from the Americas.

The convention on traffic in women and children was ratified only by Chile and Cuba while Uruguay acceded on October 21, 1924.

The convention on traffic in opium and other dangerous drugs of January 23, 1912, has been ratified by 47 different nations, 18 of which are Latin American. As to the opium convention of February 19, 1925, none of the Latin American Governments has ratified, while only three, the Dominican Republic, Salvador and Venezuela, have acceded. Of the 40 nations which had signified their adoption of the import certificate system prior to March, 1929, six were Latin American.[1] There have been repeated complaints made by the Advisory Committee on Traffic in Opium and other Dangerous Drugs regarding the difficulty in obtaining information from the South and Central American states. The Council upon the request of the committee invited the Secretary-General to approach the Governments of these countries in order to obtain: [2]

(1) Regular annual reports to be dispatched on October 1 of each year, and to be based on the model form now generally adopted;

(2) Copies of the laws and regulation in force concerning the traffic in narcotics;

(3) Information with regard to the administrative arrangements for enforcing the laws and regulation in vigor and, in particular, information as to the acceptance and application of the import and export certificate systems;

(4) Information as to whether these Governments intend to ratify or adhere to the Geneva convention of February 19, 1925;

(5) Information as to the illicit traffic in narcotics in their respective countries;

[1] *Official Journal*, X, p. 661.

[2] *Ibid.*, VIII, p. 540.

(6) In cases where the Hague convention of 1912 has not yet been ratified and enforced, information as to when such ratification and enforcement may be expected.

Only 20 annual reports had been received from Latin America for the seven years 1921–27.

About the same degree of interest is shown in preparing the ground for the conclusion of conventions. Though the armament question is not of primary concern to Latin America, it is one of the most important problems in the world. The draft treaty of mutual assistance provoked little interest in Latin American countries. To the questionnaire on it, there were 20 replies from European nations, but only one from South America (Uruguay).[1] "The slowness of the American states in replying to the request of the Council was partly due to the fact that the treaty of mutual assistance would not be operative or could not be applied in the future in respect to such states. At the same time they recognized that it was a sacred duty for all civilized people to cooperate against the crime of aggression and acts of international bad faith, and to cultivate their material, economic, financial and moral forces, so far as they were able to save mankind from the horrors of war. . . . The delegates of the American states were certainly of the opinion, and this feeling was shared by American states not represented at the Assembly, that any attempt made in Europe to secure the universal and unreserved application of compulsory international arbitration in order to supplement the provisions of the Covenant would meet with enthusiastic and unanimous support from the American peoples, in view of the fact that the consecration of right by means of justice was one of the most cherished aspirations of all the democracies of the new continent."[2]

The Latin American nations were no more responsive to the recommendations of the Second Assembly relative to

[1] *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Third Committee*, p. 130 *ff*. (*Official Journal*, Spec. Sup. No. 26).

[2] *Ibid.*, p. 24–25. (Señor Guani, Delegate of Uruguay, before the Third Committee of the Fifth Assembly.)

the reduction of expenditures on armaments. Of the 18 countries which did not answer, 12 were Latin American, four of which were South American. Bolivia, Colombia and Peru reported a reduction, while Brazil and Chile were unable to do so. Chile simply noted that it did not contemplate an increase.[1] This can easily be understood in view of the continental situation regarding armaments, which the American delegates have repeatedly stressed before the League. Chile and Brazil have pointed out on numerous occasions that it was not a question of reduction in America but rather one of limitation of armaments.

3. Finances

One index of cooperation with the League of Nations, as with any other institution, is the regularity with which financial obligations are met and the conscientious fulfilment of budget requirements. The cooperation of the Latin American countries in this respect with the League of Nations has been less satisfactory than that of any other group of nations. The South American nations have a better record, however, than the Central Americans.

The original allocation of expenses of the League was on the basis of the quotas of the Universal Postal Union in which the participants elect the class in which they pay units. The small budget of that union had encouraged small states to choose classes above their relative status. In most other respects also the allocation was not suitable for the League of Nations budget. The Committee on Allocation of Expenses worked on the whole problem from 1920–1924, when definite principles were established.

The balance sheet of the League at the close of the first fiscal year showed a favorable situation in regard to the fulfilment of their quota requirements. There were only four Latin American nations which had not paid their first budget contribution prior to November 26, 1920, these being Argentina, Cuba, Paraguay and Salvador. It was

[1] *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 82–86.

noted, however, that the contributions of Cuba and Paraguay were in the mail, although they did not arrive in time for the report on the budget to the First Assembly.[1]

Finance has been one League subject about which all Latin American nations have been in accord. This subject divides the honors with that of a greater representation on the Secretariat, for receiving the greatest attention of the delegates of these countries in the Assembly. The question

BUDGET UNITS PAYABLE BY LATIN AMERICAN STATES

Year	1920[2]	1921[3]	1922	1923	1924	1925	1926-1932
Total units	478	437	770	944	932	932	937–986
Unit value	20,920 Sw. fr.	$9,385.01	$5,232.04	$5,248.93	$4,810.09	$4,675.90	$4,722.03[4]
ARGENTINA	5	15	35	(35)	(35)	–[5]	29
BOLIVIA	3	3	5	5	5	5	4
BRAZIL	15	20	35	35	35	35	29
CHILE	5	10	15	15	15	15	14
COLOMBIA	5	3	10	7	7	7	6
COSTA RICA[6]	–	–	2	1	1	1	1
CUBA	3	5	10	9	9	9	9
DOMINICAN REPUBLIC	–	–	–	–	–	1	1
GUATEMALA	3	1	2	1	1	1	1
HAITI	3	1	5	2	2	2	1
HONDURAS[6]	–	–	2	1	1	1	1
NICARAGUA[6]	–	–	2	1	1	1	1
PANAMA	3	1	2	1	1	1	1
PARAGUAY	3	1	2	1	1	1	1
PERU	5	3	10	10	10	10	9
SALVADOR	3	1	2	1	1	1	1
URUGUAY	3	5	10	7	7	7	7
VENEZUELA	3	3	5	5	5	5	5

[1] *Records of the First Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 97.

[2] *Ibid., Minutes of the Committees*, Vol. II, p. 119.

[3] *Ibid.*, p. 127.

[4] The unit for 1926 was $4,722.03; 1927, $4,659.85; 1928, $4,787.39; 1929, $5,288.86; 1930, $5,520.55.

[5] Held over.

[6] Not formal members when schedule was made.

of budget contributions has received the greatest amount of attention from the smaller countries of the Caribbean region, although the other American states have generally supported the same point of view. In fact, this is about the only question which has elicited the active attention of some of the smaller countries. Some have consistently failed to meet their financial obligations. The original budgets applied to Member states the quotas of the Universal Postal Union, which were unsuited to the purpose and were inequitable. There was, therefore, originally a legitimate cause of complaint. There has also been a tendency to compare the allocation of the League budget with that of the Pan American Union, which is divided on a basis in 1930 of $1.10 contribution for each thousand inhabitants.

Señor Restrepo of Colombia before the Second Assembly said that, while it wished to remain a Member of the League and to pay within the limits of its resources, Colombia nevertheless demanded that the committee should make an effort to lighten, as far as possible, this burden for all the smaller countries of South America, if it wished to keep them in the League of Nations.[1] Señor Urrutia of Venezuela also expressed the hope of his Government that the budget would not be increased; the question of finances was not only in the interests of Colombia but also of the League of Nations because human enterprises are often threatened by causes of secondary importance. He thought that the future of the League might perhaps be endangered by questions of a financial nature.[2] Salvador had objected in 1920 and again in 1922 and sent no delegates to the Second or Third Assemblies. Cuba, Costa Rica and Panama also opposed any increase.

The Latin American countries in arrears in their contributions on December 31, 1920, were Argentina, Guatemala, Honduras, Nicaragua, Paraguay, Peru and Salvador.

[1] *Records of the Second Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 88.

[2] *Records of the Third Assembly, Plenary Meetings*, p. 357.

The same was true at the end of 1921, while during the fourth financial year (1922) Bolivia, Colombia, Costa Rica and Haiti were added to the list and Argentina was dropped entirely from the schedule. No reference was made to Argentina in either the report or the budget schedule to the Third Assembly.[1]

The Second Assembly recommended a change in the system of allocation but the Latin Americans were not wholly relieved of what they considered an excessive burden. The revised scale of the Committee on Allocation of Expenses was adopted by the Third Assembly whereby the quotas of Colombia, Costa Rica, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay, Salvador and Uruguay were reduced.[2] Ten out of 14 nations having their quotas reduced were Latin American.

The Fourth Committee of the Fourth Assembly considered the question of arrears and proposed striking out a number of the budget deficits by retroactive application of the new scale.[3] Six Latin American countries profited by this action, viz: Costa Rica, Guatemala, Honduras, Nicaragua, Paraguay and Salvador.

On June 10, 1924, Argentina paid 1,011,355 gold francs for the contributions due prior to and including 1922 and 745,538.40 francs for 1923, although the Assembly had dropped it from the schedule. No payment was made in 1929.

The financial standing in the League of the Latin American countries on August 31, 1929, showed that Bolivia, Honduras, Nicaragua, Paraguay, Peru and Salvador owed for more than the contributions of 1929.[4] Peru headed the list with a debit for all quotas since 1920 with a grand total of 1,461,771.20 gold francs. Honduras and Nicaragua

[1] *Records of the Fourth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 188 (*Official Journal*, Spec. Sup. No. 17).

[2] *Records of the Third Assembly, Plenary Meetings*, p. 381–382; *Ibid., Meetings of the Committees, Minutes of the First Committee*, p. 74 *ff.*

[3] *Records of the Fourth Assembly, Plenary Meetings*, p. 348–349 (*Official Journal*, Spec. Sup. No. 13).

[4] *Records of the Tenth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 116 (*Official Journal*, Spec. Sup. No. 79).

owed compounded arrears and contributions since 1922 and Bolivia contributions since 1923. Bolivia owed 630,772.03 francs while Nicaragua owed 203,364.21 and Honduras 190,958.72 francs. Guatemala, Paraguay and Salvador also showed balances due.[1] With the exception of China the only countries in arrears for quotas prior to 1928 were Latin American republics.

When a nation enters the League it undertakes certain obligations, among which are the financial ones. These are legally binding upon it until two years after notification of withdrawal. Since these Latin American nations have never given notice of an intention to withdraw they are still Members and under an international obligation to meet the payments.

The Seventh Assembly considered the problem of non-payment, which had also been taken up at previous Assemblies. A resolution was passed requesting the Secretary-General to give his support to any steps which he might consider useful in recovering arrears and also requesting the Council to cause a study to be made of the legal position of states which do not pay their quotas.[2]

The financial obligations of the states Members of the League arise under Art. 6, par. 5, of the Covenant. This paragraph as now in force (since August 13, 1924) reads as follows: "The expenses of the League shall be borne by the Members of the League in the proportion decided by the Assembly." The Covenant contains no direct provision imposing any sanction or penalty upon a Member which fails to pay its contribution. The legal position of Members in arrears was examined by the Committee on Amendments in 1921. The committee recommended that interest be charged on contributions overdue and that annual statements should indicate those states which were in arrears. The Assembly in 1922 rejected the proposal to charge interest.

[1] *Records of the Ninth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 162–164 (*Official Journal*, Spec. Sup. No. 68).

[2] *Records of the Seventh Assembly, Plenary Meetings*, p. 142 (*Official Journal*, Spec. Sup. No. 44).

The report of the Secretary-General submitted to the Council, March 9, 1927, on the "Legal Position of States which do not pay their Contributions to the League" stated that "it does not appear reasonably open to doubt that the financial obligation assumed by a Member of the League under Art. 6 is one of the covenants of the League and that the last paragraph of Art. 16 applies formally to violation of this covenant no less than to violation of the more fundamental obligations of the Covenant."[1] The report notes that "the participation of a state Member in bearing the expenses of the League may be regarded as among the least essential of the advantages which the Members in general obtain from the membership of that state. The obligation to make financial contributions is merely ancillary to the maintenance of the permanent organs of the League and a permanent body of officials, and to the conduct of the League's business by means of commissions and conferences. One may conclude that application of the last paragraph of Art. 16 of the Covenant to a state whose contributions were in arrears would hardly be likely to be contemplated by the Assembly or the Council unless the default were so continued and wilful as to indicate a deliberate violation of the financial obligations imposed by the Covenant.

"Apart from the somewhat theoretical possibility of the application of Art. 16 of the Covenant it appears certain that the strictly legal rights (including, for example, the right to vote at the Assembly and eligibility for membership of the Council) which a state derives from membership of the League can not suffer any diminution as the result of default in payment of contributions."

In view of the fact that there has been so much discussion about the financial obligations it might be interesting to note the annual quotas of these various republics. For the sake of comparison, the annual quotas of the same countries for the support of the Pan American Union are also given:

[1] *Official Journal*, VIII, p. 505–508. The paragraph referred to reads: "Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the representatives of all the other Members of the League represented thereon."

COMPARISON OF BUDGETS FOR 1929

	League of Nations.[1]	Pan American Union.[2]
ARGENTINA	$153,376.79	$11,711.50
BOLIVIA	21,155.42	3,102.13
CHILE	74,043.97	4,427.43
COLOMBIA	31,733.13	7,279.62
CUBA	47,599.70	3,927.74
DOMINICAN REPUBLIC	1,106.09	987.15
GUATEMALA	5,288.86	2,205.39
HAITI	5,288.86	2,233.00
HONDURAS	5,288.86	770.89
NICARAGUA	5,288.86	701.93
PANAMA	5,288.86	490.71
PARAGUAY	5,288.86	1,100.00
PERU	47,599.70	5,082.00
SALVADOR	5,288.86	1,822.70
URUGUAY	37,021.98	1,892.51
VENEZUELA	26,444.28	3,329.57

4. Cooperation on Health Questions

A consideration of the cooperation of the South American states with the League of Nations can not ignore the Conference of Health Experts on Infant Mortality which met in Montevideo, June 6, 1927.

The Council, with a view to developing technical relations with Latin America, approved the recommendation of the Health Committee to send its president and the medical director of the Health Section to attend a meeting of experts on child hygiene of Latin American countries. The object was to place at their disposal the experience of European experts, to confer with the representatives of the health administrations of the countries visited in regard to the work of the Health Organization [3] and to arrange for

[1] *Official Journal*, IX, p. 1856.

[2] Report of the Director General of the Pan American Union for the Fiscal Year ending June 30, 1928.

[3] *Official Journal*, VIII, p. 1249.

an investigation of the problem of infant mortality similar to that which was being carried on in European countries under the Health Organization.

This was the first conference held on Latin American soil under the auspices of the League. It was attended by a medical expert from each of the following countries: Argentina, Brazil, Bolivia, Chile, Paraguay and Uruguay.[1] The Health Organization was represented by Professor Thorvald Madsen (Denmark), president of the Health Committee, who presided, and by Dr. Rajchmann, League Medical Director, who had charge of the technical secretariat. The experts discussed the methods to be followed in the inquiries which were to be made and it was recommended that the investigation should begin on January 1, 1928, in Argentina, Brazil, Chile and Uruguay in certain selected districts. The methods employed in Europe were adopted with slight modifications.

Sir Austen Chamberlain, President of the Council, remarked on June 15, 1927, that this League meeting on Latin American soil was an event of considerable importance. He said that it was an outward and visible sign of the universality of the League and of the fact that, although its seat was on the continent of Europe and hence the great majority of its meetings were inevitably held on that continent, its Members were none the less anxious to understand and, where possible, to help in solving problems which the more distant countries had to face. He trusted that the meeting at Montevideo might be the first of many such meetings, which could not but contribute to the better understanding of the special interests and points of view of those Members of the League who were, geographically speaking, far removed from its center.[2]

Señor Villegas (Chile), speaking in behalf of the Latin American countries on the Council, said that "the conference furnished a further proof of the interests that the American countries have always taken in the work of the

[1] *Official Journal*, VIII, p. 1249 *ff*.

[2] *Ibid.*, p. 764.

League. He fully agreed with the president that more meetings of this kind should be held in countries, which, though remote from the permanent center of the League, gave it loyal and effective support in the work which it was doing."

Since 1927 some progress has been made in regard to the collaboration of Latin American administrations in the work of the Health Organization of the League.[1] An investigation of leprosy has been made while the system of interchanges and individual missions in Latin America is in operation.

The Eighth Assembly approved a sum of 100,000 francs for "technical investigations in Latin America" and of this 65,000 francs was allocated for the infant mortality inquiry and 18,000 for the sending of foreign experts and for providing fellowships in connection with the School of Public Health and the Leprosy Center at Rio de Janeiro.[2]

The report of the Health Committee submitted to the December, 1928, meeting of the Council noted that steps were being taken to obtain an exchange of information between the Singapore Bureau and the Pan American Union. It pointed out that the "current information supplied by the latter bureau is of special interest and importance to Australia in view of the close commercial relations with the American continent."[3]

Sr. Urrutia noted with regret before the Council in March, 1927, that no Latin American expert was on the Health Committee which dealt with problems of a universal character entirely outside of politics. Dr. Carlos Chagas (Brazilian) was on the committee itself. Sr. Urrutia warned the Council that "if experts [on the Health Committee] from overseas countries were not to take much part in the work which the League has undertaken, they would perhaps turn their attention rather to the continental conferences

[1] *Official Journal*, VIII, p. 1249 *ff*.
[2] *Ibid.*, IX, p. 371.
[3] *Ibid.*, X, p. 80.

which met periodically to deal with questions of health."[1] The appointment of Dr. G. Araoz Alfaro (Argentine) to the committee followed.

5. Pan American Union and the League of Nations

There are two important contacts between the Pan American Union and the League of Nations. The Pan American Sanitary Bureau is cooperating with the Health Section and the Trade Advisor's Office of the Pan American Union is cooperating with the International Labor Office in Geneva.

The representatives of the American republics acting in concert at the International Sanitary Conference in Paris in 1926, secured the recognition of the Pan American Sanitary Bureau on an equal footing with the Health Section of the League. This places the obligation upon the bureau to maintain in the Western Hemisphere an intelligence service for the reporting of communicable diseases comparable to that maintained by the Health Organization of the League in the Eastern Hemisphere.[2]

This is one means by which the Pan American organization and the Secretariat of Geneva may effectively cooperate. Health problems are very important in South America and cooperation in regard to their solution during the past few years greatly improved health and sanitary conditions.

The work of the Trade Advisor's Office of the Pan American Union in the collection of material and information on the organized labor movement in the Americas, such as labor laws, working hours and conditions, has been of great service not only to the students of these subjects but also to the Labor Office. This data and other factors affecting the laboring population such as hours of employment, housing conditions, general movement of labor, causes of strikes, etc., are transmitted monthly by the Pan Ameri-

[1] *Official Journal*, VIII, p. 348.

[2] *Report on the Activities of the Pan American Union*, submitted to the Governments, Members of the Pan American Union by the Director General (Washington, 1927), p. 20.

can Union to Geneva.[1] The International Labor Office itself has published *Legislación social de America Latina*, in addition to its regular labor *Legislative Series*.

These are two examples of regional bureaus assisting the League organization in the collection of information and in the general field of administration. They serve as a very important liaison between the American grouping and the world institution and show how a regional bureau may work effectively with the League in activities of a functional character. It might well be that increased relations between the Pan American Union and the League of Nations will evolve along such lines of cooperation.

6. The Dispute Between Bolivia and Paraguay

One of the most interesting phases of Latin American relations with the League of Nations has been in connection with the dispute between Bolivia and Paraguay in December, 1928, over the Chaco Boundary. War was threatened for the first time in South America since the establishment of the League of Nations. American problems had scarcely been considered by the League. The outstanding problem, Tacna-Arica, had not been examined; an agreement soon afterward (1922) provided for its solution, and it was settled in 1929 by direct negotiations, brought about through the good offices of the United States. The other "American problem" arising since the organization of the League of Nations was the border dispute between Costa Rica and Panama in 1921, settled through the mediation of the United States.[2]

The parties to the 1928 dispute were both Members of the League, although Bolivia had not actively participated since 1922, while Paraguay had consistently been represented at the Assemblies but had not been otherwise very active. The only neighbor of the disputants actively participating in the League was Chile.

[1] *Op. cit.*, p. 5.

[2] See *supra*, p. 120.

Argentina had been interested in settling the boundary dispute through an arbitration commission which had been created through its good offices and which had met in Buenos Aires,[1] and might interpret League action as a usurpation of its rôle in the affair.

After the breakdown of the Buenos Aires conferences [2] in the summer of 1928, various disturbing reports about alleged Bolivian mobilization were circulated. Late in the summer a party of Bolivian officers was arrested in the disputed territory by a Paraguayan patrol. It was stated that all were equipped with maps and instruments for making surveys. On December 6, 1928, a Paraguayan force discovered a group of Bolivian soldiers building a fort on territory which Paraguay claimed. The Bolivians were ordered to leave and when they refused a clash ensued. Two days later Bolivia broke off diplomatic relations with Paraguay. War fever ran high, threatening an outbreak of hostilities.

On December 10, 1928, the Council of the League met in regular session at Lugano. The press was carrying accounts of the border clash of December 8, the break of diplomatic relations and the threatened hostilities between the two South American republics. No official report or appeal from either disputant was received by the Council nor did any third state call attention to the incident as affecting the peace of the world. The Council, recognizing its responsibility under the Covenant, considered in secret session on December 11, the situation as it appeared in the press and requested its president to send the following telegram to the two Governments: [3]

The Council of the League of Nations, meeting at Lugano for its fifty-third session, expresses its full conviction that the incidents

[1] This commission was set up in pursuance to the Gutierrez-Diaz-León protocol which was negotiated in Buenos Aires April 22, 1927, and by which the two countries accepted the good offices of the Argentine Government for the purpose of promoting a solution of the dispute.

[2] *Official Journal*, X, p. 254. The whole correspondence is printed separately as C. 619. M. 195. 1928. VII. 1.

[3] *Ibid.*, p. 21.

which have occurred between two Members of the League of Nations will not become more serious. It does not doubt that the two states, which by signing the Covenant have solemnly pledged themselves to seek by pacific means the solution of disputes arising between them will have recourse to such methods as would be in conformity with their international obligations and would appear, in the actual circumstances, to be the most likely to insure, together with the maintenance of peace, the settlement of their dispute.

Great care was exercised by the Council members in drafting the telegram and it was so worded that an immediate response was not required, if any at all. Neither disputant had brought the incident to the attention of the Council. The Council received a telegram on December 12 from the Bolivian minister in Paris which, after a detailed account of the events, said:

No nation could subject, even to the highest tribunal in the world, its most sacred attributes, which require that reparation should be made for outrages received before returning to a state of moral equilibrium, which the laws of human dignity impose.

On December 13 an acknowledgment from Bolivia was received by the Council which referred to the "dispute which has arisen between two Members of the League,"[1] and announced the preparation of a further reply. The Paraguayan reply referred to the Council's cablegram as "proof of the lofty spirit of peace governing the deliberations of the Council." It added that Paraguay was "animated with the same spirit and would accept and faithfully fulfill her internatioual obligations." It noted that Paraguay had offered and Bolivia had refused to submit the dispute to the commission of inquiry which had been set up under the Gondra treaty signed at the Fifth International Conference of American States in 1923.

The Bolivian reply, preceded by a detailed "report" of the events, was received December 15, 1928, the final day of the Council session. This contained the following:[2]

[1] *Official Journal*, X, p. 40.

[2] *Ibid.*, p. 71–72.

The Council of the League and your Excellency may rest assured that Bolivia will not depart from the principles and obligations contained in the Covenant. . . .

By an inexcusable surprise blow and in contradiction with the stipulations of Arts. 10 and 13 of the Covenant of the League, Paraguay has committed an agression which we solemnly denounce to the Council, . . . and we declare that Bolivia has no alternative but to demand the satisfaction which is due in such cases and to take military measures of a defensive character to safeguard her security. . . . Until the satisfaction due by Paraguay has been given, it does not seem possible to my Government to allay the excitement of public opinion sufficiently to permit the resumption of peaceful negotiations. I have no doubt that the Council in its impartiality will recognize the justice and sincerity of these explanations and will take note of my Government's declaration of its intention to act on the Council's recommendations and to observe the stipulations of the Covenant. But Bolivia can not agree that, under cover of conciliation proceedings, the agreements providing for judicial arbitration on a concrete and definite basis should be invoked in order to settle the substance of the dispute, or that an attempt should be made to evade the obligation to provide the just satisfaction prescribed by international law and practice in such cases.

The Council, following the completion of its ordinary agenda, considered the affair in private session just before adjournment. It decided upon three steps: replies to both states; communication of the correspondence to all other states; and instructed the President to follow the course of the dispute and to call a special session, "if events showed such a course to be desirable."

The note to the disputant Governments expressed the conviction of the Council that the obligations of the Covenant would be respected and called attention to the fact that states, Members of the League [1]

can not, without failing in their obligations, and notably those contracted under Art. 12, omit to resort by some method or other to one of the procedures of pacific settlement provided for in the

[1] *Official Journal*, X, p. 72.

Covenant. The Council also thinks it well to draw attention to the fact that the Covenant mentions, among others, "disputes as to the existence of any fact, which if established, would constitute a breach of any international obligations, or as to the extent and nature of the reparation to be made for any such breach." The Council wishes to emphasize that in its experience it is most important to confine all military measures of a defensive character to those which can not be regarded as aggressive against the other country, and which can not involve the danger of armed forces coming into contact.

The correspondence was transmitted to all states Members of the League, to the ministers of the United States and of Brazil at Bern and to the ministers of Costa Rica, Ecuador and Mexico at Paris, so as to inform all Governments likely to be interested in the solution of the difficulty of the action taken.

A telegram from the Bolivian minister of foreign affairs dated December 15 again informed the president of the Council that "Bolivia had been obliged to take military measures of a defensive character to safeguard her security." He added that, in view of the concentration of Paraguayan troops, "it is my Government's duty to be prepared." "In conformity with its international obligations," the minister of foreign affairs said, "my Government has hastened to inform the Council of the League of Nations of this new development, which was the natural sequel of the attack directed against us last week. Paraguay is now clearly responsible for a breach of the most solemn international undertakings and has failed in the duties of all civilized nations for the maintenance of peace."[1]

The next day, December 16, M. Briand cabled the Bolivian Government as follows:[2]

The facts which you report to me show still more clearly the dangers to peace created by the contact between military forces

[1] *Official Journal*, X, p. 264.

[2] *Ibid.*, p. 265.

belonging to the two countries on the frontier, and the urgency, to which the Council has drawn your attention, of taking measures to prevent further incidents capable of compromising the success of any peaceful procedure.

I venture to emphasize afresh the suggestions which were made to you by the Council on receipt of your Government's solemn assurances that it would respect the obligations of the Covenant.

The Bolivian Government sent a telegram to M. Briand on December 17 notifying the Council that it had ordered the commanders of the military posts to refrain from any advance and any attack and to confine themselves to defensive measures. It said that Paraguay had decreed the mobilization of the classes from 18 to 28 years and ended by saying that, "Bolivia is confining herself to the measures of precaution essential to her security."[1]

Meantime an American solution for this American problem was being sought. The International Conference of American States on Conciliation and Arbitration had convened on December 10, when this border dispute was becoming dangerous. All of the American Governments except Argentina were represented.

At the first plenary meeting (December 10, 1928) the American Conference took cognizance of the dispute between two of its members. It unanimously adopted a resolution,[2] proposed by Sr. Maúrtua of Peru, expressing the hope that the "differences shall be adjusted peacefully," calling the two Governments' attention to the fact that there existed "adequate and effective organs" at their disposal for the solution of such conflicts, and forming a special committee to advise the conference upon the conciliatory action which "it might render by cooperation with the instrumentalities now employed in the friendly solution of the problem." This action of the conference found favorable echo throughout the Western Hemisphere.

[1] *Official Journal*, X, p. 265.

[2] The International Conference of American States on Conciliation and Arbitration: Washington, December 10, 1928–January 5, 1929 (Washington, 1929), p. 86–88.

Paraguay had ratified the Gondra treaty to prevent conflicts between the American states, which had been signed at the Fifth American Conference in 1923, and immediately notified the permanent commission at Montevideo of the dispute. This commission proceeded to provide a commission of inquiry in accordance with the treaty. The Bolivian delegate was ordered to withdraw from the American conference and was absent from the meeting on December 11 on instructions issued by the acting minister of foreign affairs while the foreign minister was in Antofagasta to meet President-elect Hoover, who was then making his good-will trip to Latin America. Almost immediately after receiving the note of the Bolivian Government notifying him of the withdrawal of Bolivia from the conference, Secretary Kellogg, chairman of the conference, cabled instructions to the American minister at La Paz to urge upon the Bolivian Government, on behalf of the United States and of the conference, that it reconsider its action. The following day, December 12, the President of Bolivia and the foreign minister both ordered the Bolivian delegate to resume his seat, because of "the request of the Pan American Conference on Arbitration and Conciliation and of Secretary Kellogg."[1]

The initiative in the settlement of the dispute was, therefore, taken by the American conference. The special commission composed of Dr. Victor M. Maúrtua of Peru, Dr. Orestes Ferrara of Cuba, Gurgel do Amaral of Brazil, Manuel Foster of Chile and Charles Evans Hughes of the United States met frequently to consider means of averting a conflict. Although the two disputants were invited to be represented on the committee, Bolivia did not authorize its delegate to participate.

The second meeting of the conference on December 14 considered the report of the special committee. The previous day the State Department had received information that Argentina was agreeable to the conference extending its good offices in the crisis and this made the action of the

[1] *New York Times*, December 13, 1928.

committee unanimous so far as the American republics were concerned. The committee reported a resolution proposing that the conference "proffer its good offices to the interested parties for the purpose of promoting suitable conciliatory measures with the aim of preserving the principle of conciliation and arbitration as a solid foundation of international life." The conference adopted this resolution and continued the special committee.[1] The rôle of the conference was that of a tenderer of collective good offices to the two Governments in an attempt to find a course of their own choice to settle the controversy. The boundary dispute proper was not to be considered inasmuch as it was still under the jurisdiction of the Argentine Government.

M. Briand as president of the League Council, upon his return to Paris, entered upon a series of conversations with the Bolivian and Paraguayan ministers and the Latin American representatives on the Council. He also conferred on December 18 with the Argentine and United States chargés d'affaires and handed them an aide-mémoire in which was noted the possible calling of an extraordinary session of the Council to consider "what measures should be taken, either because war has broken out — or because it is on the point of breaking out — between two Members of the League."[2] He observed that neither state appeared to recognize any common contractual obligation not to resort to war other than that arising under the League Covenant, by which both were bound. He mentioned the mediatory measures reported to have been taken by the Argentine Government and by the American conference and pointed out that the Council had not received any official information from either but that the Council, on the other hand, was giving full information regarding the action which it had taken. He concluded:

The President of the Council of the League of Nations, who has been instructed by the Council to follow the development of the

[1] *Proceedings of the International Conference of American States on Conciliation and Arbitration*, p. 80–82.

[2] *Official Journal*, X, p. 266.

dispute, therefore feels that it would be of the greatest importance for the maintenance of peace — the supreme object which all must have in view — that the Argentine/United States Government should inform him what measures could, in its opinion, be the most advantageously taken by all who are working to bring about a pacific settlement of the dispute.

The purpose of the aide-mémoire, M. Briand stated, was that the Council and the other two agencies, Argentina and the American conference, should coordinate their efforts in bringing about a peaceful settlement.

A new clash occurred on December 16 when Bolivia captured Fort Boquerón. Paraguay called up the military classes between 18 and 29 years of age. The following day Paraguay notified the American conference of the acceptance of its good offices and also forwarded a notice of this action to the League of Nations. The next day, December 18, Bolivia accepted the good offices of the conference:

Bolivia accepts the good offices of the Conference of Conciliation and Arbitration, renders homage to the spirit of the Americas and reiterates her adhesion to the principles of justice which inspired her conduct and policy.

On December 19, Bolivia notified M. Briand that, "in accordance with the nobly inspired suggestions of the Council of the League of Nations, Bolivia has now accepted the good offices of the Conciliation and Arbitration Conference at present in session in Washington." M. Briand immediately cabled congratulations as follows:[1]

The Council, all of whose efforts were directed toward preventing any aggravation of the dispute and facilitating a peaceful settlement by any possible method, can not but be gratified at the cessation of a conflict between two Members of the League united by common bonds of race and tradition, and at the favorable reception given to the generous initiative of the Pan American Arbitration Conference. The Council can but trust that the pro-

[1] *Official Journal*, X, p. 267.

cedure to which the two parties have now agreed will lead to the speediest possible settlement of their dispute and the restoration of a good understanding and of peaceful cooperation between them.

The special committee of the American conference, in endeavoring to find a mutually satisfactory person or organ of mediation, considered the chairman of the conference, Secretary Kellogg, Argentina and the Gondra commissions. No suggestion seems to have been made to intrust the task to the League of Nations. The plan which was finally embodied in the protocol signed by the two Governments at the conference, January 3, 1929, provided for a commission of nine, five of whom were to be appointed by the Governments of the United States, Mexico, Colombia, Uruguay and Cuba. This commission was to investigate the facts and endeavor to reconcile the disputant nations. If conciliation should prove impossible, the commission was to publish a report as to the facts found and fix the responsibilities.[1]

The next day the Bolivian Government sent a telegram to its minister in Paris instructing him to "inform M. Briand, President of the Council of the League of Nations, that we have signed a protocol providing for the setting up of a commission as suggested by the Pan American Conference at Washington to fix the responsibility for the Paraguayan aggression. We propose to submit the substance of the dispute for arbitration to the Hague Court."[2]

The replies of the League Members to the communication of the Council, transmitting the complete correspondence in connection with the dispute are interesting. The Venezuelan Government "noted with interest" the action and declared that it will "hail with satisfaction the success of the Council's efforts and hopes that the action undertaken will have the happiest results."[2]

The Uruguayan Government "is happy to possess this evidence of the Council's valuable action on behalf of peace

[1] *Proceedings of the International Conference of American States on Conciliation and Arbitration*, p. 162.

[2] *Official Journal*, X, p. 270.

which brings into prominence the exalted rôle of the League and the admirable spirit of cooperation and concord that animates the distinguished members of its Council, who have so definitely, and by such well-chosen means, upheld the prestige and illuminated the lofty aims of the League of Nations, an institution of which Uruguay has the honor of being a Member."[1]

Nicaragua simply took "note" of the cable. Colombia expressed its indebtedness for the information and said that it had approached the Governments of these countries expressing the hope that peace might be maintained on the American continent. Honduras and Guatemala took note, while Salvador expressed its warm approval of the action taken by the League.[2]

Two of the South American delegates on the Council expressed their pleasure to M. Briand for the success of his efforts. The letter of Sr. Zumeta (Venezuelan representative on the Council) of December 22 read:[3]

> Your notification that Bolivia, in accordance with the Council's suggestions and in conformity with the Covenant, has accepted, as has Paraguay, one of the procedures of pacific settlement provided for in the Covenant, establishes a most encouraging precedent for the maintenance of peace beyond the Atlantic by the harmonious coordination of all the efforts exerted in the direction of mediation and arbitration.

Señor Villegas, the Chilean representative, offered his most cordial congratulations to M. Briand to whose authority he attributed that "these efforts have already produced positive results," which "will play their part in strengthening the prestige of the League of Nations."

Several other Governments as well as a number of foreign ministers, mostly European, congratulated the president of the Council.

[1] *Official Journal*, X, p. 271.

[2] *Ibid.*, p. 272. See the 21 responsive telegrams at the places cited.

[3] *Ibid.*, p. 273.

The mediation of the conference was entirely in conformity with the obligations of Bolivia and Paraguay under the League Covenant. Regionalism has been accepted within the purview of the League structure as an effective method of bringing about practical results. Rather than attempt to evaluate the respective contributions of the League and the American conference toward the solution of the conflict, it would seem appropriate to regard them not as competing organs but as coexisting institutions, supplementing the efforts of each other in the interests of world peace. Both were able to mobilize the sentiment for peace and to give expression to it. The notes addressed to the two Governments by both were not the official voices of individual Governments but something far more important, the expression of the world's public opinion. The American conference expressed the unanimous opinion of 19[1] American republics (Argentina, although not a member approved the action of the conference) while the League Council, composed of 14 states, was representative of 54 nations and was the official body to speak for them.

The Commission of Inquiry and Conciliation reported on September 21, 1929, in accordance with the protocol of January 3. The detained nationals of Bolivia and Paraguay had been repatriated; the second function of the commission, conciliation, had been effected, and it became unnecessary to render a report and to establish the truth of the matter investigated and the responsibilities. But they recorded that Paraguay's measures at Vanguardia caused the armed reaction of Bolivia. The neutral commissioners had secured from the delegations of Bolivia and Paraguay acceptance of the proposition that the fundamental question be examined, and for this purpose a draft convention for arbitration was submitted to the parties. They accepted it in principle, but the lapse of the full powers of the Bolivian commissioners prevented its signature. That question was, therefore, remitted to the Bolivian and Paraguayan Governments, the neutral commissioners closing their procedure

[1] The acceptance of its program by the disputants was, moreover, explicit.

with a resolution recommending their own Governments to proffer their friendly offices to the parties in the event that they might be of service. The Governments of Mexico, Colombia, Uruguay, Cuba and the United States duly received this resolution.[1]

The Uruguayan Government then undertook actively to aid the disputants, and for several months the question seemed to be pursuing a normal course toward solution. On January 16, 1930, Bolivian and Paraguayan troops encountered each other at Isla-Poi (Isla-Dans) in the Chaco Boreal. A Paraguayan soldier and a Bolivian dragoon leader were killed in a fracas said to have been between 60 Paraguayan soldiers and 15 Bolivians. On January 21, the Paraguayan delegate to the League reported his version of the conflict to the Secretary-General, alleging "that the Bolivian Government is apparently seeking, by sanguinary incidents, to occasion a new dispute that would enable it not to accept the good offices of the American nations which are at present being directed toward the pacific settlement of the dispute relating to the frontiers." The Paraguayan Government desired "once more to show its sincere attachment in this case to a policy of international peace and agreement." This was followed by a telegram containing a translation of an intercepted cipher telegram containing instructions from the Bolivian general staff, concerning which the Paraguayan delegate "formally protests against this attempt which has been secretly prepared by the Bolivian Government." The Secretary-General transmitted these messages [2] to the acting president of the Council, Auguste Zaleski, Polish minister of foreign affairs, who on January 23 recalled to them that they had "adopted a pacific procedure for the settlement of their dispute in conformity with the undertakings of the Covenant." On behalf of the Council and the whole League of Nations, he expressed "to both Governments our confidence that no

[1] *Report of the Chairman of the Commission of Inquiry and Conciliation, Bolivia and Paraguay* (Publications of the Department of State, Latin American Series, No. 1); reprint, *Bulletin of Pan American Union*, Vol. LXIII, p. 1078.

[2] League of Nations Document, C. 122. M. 40. 1930. VII. 1.

serious incident will compromise success of pacific procedure in course."

The Bolivian delegate to the League telegraphed from Rome on January 22 that he had no official information regarding the incident, but imputed responsibility therefor to Paraguay. On January 24, in the name of his Government, he made "a formal protest to the League of Nations against the false information" received by it. "My country, faithful to the conciliation agreement to which it subscribed at Washington . . . has never for a moment departed from the line of conduct traced for it by its duties as a Member of the League and awaits the peaceful execution of the formula proposed by the Uruguayan chancellery, which it accepted immediately." On January 25, the Bolivian minister for foreign affairs cabled to the Secretary-General confirming the protest already made and assuring him "that the peace of America will never be disturbed by the fault of this country." Later in the day he denied that Bolivia had provoked the incident and alleged that Paraguay had attacked.

On January 28, M. Zaleski telegraphed the Secretary-General a message circulated to the members of the Council and to disputant Governments. He thanked the Secretary-General for communicating the two telegrams from the Bolivian Government in which it stated "that the peace of America will not be disturbed by Bolivia, which only desires the peaceful execution of the Washington conciliation agreement to be continued." This record that one of the states concerned was peacefully inclined was circulated to all Members of the League.

When this telegram reached Asunción, the Paraguayan minister of foreign affairs immediately replied requesting the Secretary-General "to inform the president that my country has never departed from pacific procedures, that it is not responsible for the incidents which have occurred in the Chaco Boreal, and that it has denounced them at the proper moment to the Council." This telegram was received at Geneva on January 30, and on the 31st the Secre-

tary-General quoted to the disputants and the members of the Council a further telegram from M. Zaleski in which he stated: "Since a similar statement has been made by Bolivia, I believe I can express to both Governments the Council's earnest desire that the two nations which accepted its suggestions and, thanks to the good offices of friendly nations, adopted a formula for the settlement of the 1928 incidents, may also succeed in finding means of settling all questions connected with the Chaco and thus avoid the occurrence of similar regrettable incidents."

The engagement of both parties not to depart from pacific procedures enabled the mediatory efforts under way in South America to proceed. On the suggestion of the president of the Council, all the correspondence with Geneva was printed and circulated to the world, thus effectively confirming to public opinion the deliberately announced attitude of the parties.[1]

Uruguay was consequently enabled to continue its mediatory functions, and shortly afterward secured a resumption of diplomatic relations.

[1] See document cited above and *Official Journal*, XI, p. 261.

V. RELATIONS WITH THE INTERNATIONAL LABOR ORGANIZATION

THE Commission on International Labor Legislation, appointed by the Preliminary Peace Conference on January 31, 1919, was "composed of two representatives apiece from the five great powers and five representatives to be elected by the other powers represented at the Peace Conference." The five representatives of the states other than the "great powers" were two representatives appointed by Belgium and one each by Cuba, Czechoslovakia and Poland. Latin America was represented in the founding of the International Labor Organization by a Cuban representative.

On April 11 and 28, 1919, the report of the commission was considered by the Preliminary Peace Conference at the plenary sessions. At these sittings the Latin American delegates spoke on only one point. On Art. 37 of the draft convention, which proposed that amendments should be effective when ratified by a certain proportion of states, Sr. de Bustamante of Cuba made reservation, pointing out that if, as a result of ratification by some states, the amendments became binding even on those which had not ratified them, the power to legislate would have been thereby delegated a thing incompatible with the Cuban Constitution. He was heartily in favor of the draft as a whole. The delegates of Bolivia, Ecuador and Panama concurred. The reservation to the draft convention, however, was not formally maintained against the final provision in Art. 422.[1]

Before the opening of the Washington conference of 1919, which inaugurated the International Labor Organization, the question had arisen as to what states should be represented. Should only those states be admitted which at the time of the conference had either ratified a treaty of

[1] International Labor Office, *Official Bulletin*, Vol. I, p. 301.

peace or had adhered to the Covenant, or should all states mentioned in the annex to the Covenant of the League be included? As there could be no question of postponing that session of the conference until the treaty of Versailles came into force, the Government of the United States, which was charged with the duty of convoking the conference, invited the 45 states mentioned in the annex to the Covenant to participate. The Latin American states concerned were:

Signatories to the treaty — Bolivia, Brazil, Cuba, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru and Uruguay;

Invited to adhere to the Covenant — Argentina, Chile, Colombia, Paraguay, Salvador and Venezuela.

Thus, 17 Latin American states were original members of the International Labor Organization. Ecuador did not continue, and Costa Rica and the Dominican Republic became members in 1920 and 1924 respectively.

The International Labor Organization according to the preamble of its constitution exists to combat those conditions of labor which involve "such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled." Its lines of interest are broadly indicated in a series of nine general principles. The members of the organization cooperate to overcome "the obstacle in the way of other nations which desire to improve the conditions in their own countries" that is represented by "the failure of any nation to adopt humane conditions of labor." The salient feature of the organization is the representation of all parties interested in the problems considered by its two organs, which are the annual sessions of the Conference and the Governing Body, directing the work of a secretariat known as the International Labor Office. In each of these organs the member Governments, which can speak for the general interests of their national publics, are represented by 50% of the membership. Employers and workers provide the other 50% in equal moieties. Voting arrangements are by majority, so that decisions are taken on the merits

LATIN AMERICAN REPRESENTATION IN SESSIONS

(Each delegation to be complete should consist of 2 Government

	1			2			3			4			5		
	1919			1920			1921			1922			1923		
	G.	E.	W.	G.	E.	W.	G.	E.	W.	G.	E.	W.	G.	E.	W.
Argentina	2	1	1	1	1	1	–	–	–	–	–	–	2	0	0
Bolivia	1	0	0	–	–	–	1	0	0	–	–	–	–	–	–
Brazil	2	0	1	–	–	–	2	0	0	2	0	0	2	1	1
Chile	2	0	0	1	0	0	1	0	0	2	0	0	2	0	0
Colombia	1	0	0	–	–	–	1	0	0	1	0	0	1	0	0
Costa Rica				–	–	–	–	–	–	–	–	–	–	–	–
Cuba	2	1	0	–	–	–	2	0	0	2	0	0	2	0	0
Dominican Republic	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Ecuador	2	0	0	–	–	–	–	–	–	–	–	–	–	–	–
Guatemala	2	1	1	–	–	–	1	0	0	1	0	0	–	–	–
Haiti	1	0	0	–	–	–	–	–	–	–	–	–	–	–	–
Honduras	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Nicaragua	1	0	0	–	–	–	–	–	–	–	–	–	–	–	–
Panama	2	1	1	–	–	–	–	–	–	–	–	–	–	–	–
Paraguay	2	0	0	–	–	–	–	–	–	1	0	0	1	0	0
Peru	2	1	1	–	–	–	–	–	–	–	–	–	–	–	–
Salvador	1	0	0	–	–	–	–	–	–	–	–	–	–	–	–
Uruguay	2	0	0	1	0	0	2	0	0	2	0	0	2	0	0
Venezuela	2	0	0	1	0	0	1	0	0	2	0	0	2	0	0

OF THE INTERNATIONAL LABOR CONFERENCE

delegates, 1 employers' delegate and 1 workers' delegate.)

6			7			8			9			10			11			12		
1924			1925			1926			1926			1927			1928			1929		
G.	E.	W.	G.	E.	W.	G.	E.	W.	G.	E.	W.	G.	E.	W.	G.	E.	W.	G.	E.	W.
2	1	1	2	1	1	2	1	1	2	1	1	2	1	1	2	1	1	–	–	–
–	–	–	1	0	0	–	–	–	–	–	–	1	0	0	1	0	0	1	0	0
2	1	0	2	1	0	2	1	1	2	1	1	2	1	0	2	1	1	2	1	1
2	0	0	2	1	1	2	1	1	2	1	1	2	1	1	2	0	0	2	1	1
–	–	–	1	0	0	–	–	–	–	–	–	1	0	0	2	0	0	2	0	0
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
2	1	1	2	1	1	2	1	1	2	1	1	2	1	1	2	1	1	2	1	1
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	1	0	0
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
1	0	0	–	–	–	–	–	–	–	–	–	1	0	0	1	0	0	–	–	–
–	–	–	1	0	0	–	–	–	–	–	–	–	–	–	–	–	–	1	0	0
–	–	–	1	0	0	–	–	–	–	–	–	–	–	–	–	–	–	2	0	0
–	–	–	1	0	0	–	–	–	–	–	–	–	–	–	1	0	0	1	0	0
1	0	0	–	–	–	–	–	–	–	–	–	–	–	–	1	0	0	1	0	0
–	–	–	1	0	0	–	–	–	–	–	–	–	–	–	1	0	0	1	0	0
–	–	–	1	0	0	1	0	0	1	0	0	–	–	–	1	0	0	1	0	0
–	–	–	–	–	–	–	–	–	–	–	–	1	0	0	1	0	0	1	0	0
1	0	0	1	0	0	2	0	0	2	0	0	2	1	1	2	1	1	2	1	1
–	–	–	1	0	0	1	0	0	1	0	0	2	0	0	2	1	1	2	1	1

of a question as it appears to a fully representative voting body.

The participation of the Latin American republics in the activities of the International Labor Organization will be considered on the basis of representation in the sessions of the Conference. The varying degrees of participation are in large measure accounted for by the amount of interest taken by the individual countries in the subjects dealt with.

The first session of the International Labor Conference was opened in Washington on October 29, 1919.[1] The Latin American republics were represented by 16 delegations, of which 4 were complete.

At this session of the Conference the difficulty which international organizations often have in appeasing national pride soon became evident. On November 25, 1919, the result of the election for members of the Governing Body of the International Labor Office was announced. This consists of 24 members, — 12 of whom are selected by the Governments of the member states. Eight of the Government representatives are always from the states of the greatest industrial importance, and the other four are chosen by the Government delegates of the other states represented at the Conference. Of the other 12 members, six are employers and six are workers, elected respectively by the employers' and workers' delegates at the Conference. This Governing Body prepares the agenda and controls the International Labor Office, and is, in a sense, the executive body of the organization.[2] The election showed that Argentina was the only Latin American state chosen to be represented in this important body.[3]

Dr. Carlos Carrera Justiz, the Government delegate of Cuba, immediately protested and presented a memorandum signed by the delegates of all the Latin American states registering their disagreement with the distribution which, "on the basis of reason and discretion, would appear not to

[1] *International Labour Conference*, First Session, 1919.

[2] For description of its functions see *Industry, Government and Labor*, p. 60. (World Peace Foundation, XI, No. 4–5.)

[3] *International Labour Conference, First Annual Meeting*, p. 131.

have been given sufficient attention if, out of the 24[1] places in the International Labor Office, 23 (*sic*) were assigned to the European nations, to the United States and to Japan, leaving only one to be allotted to the Latin American countries." To this Dr. Garcia of Ecuador added that "of 120 members that have composed the committees to study the different matters of this international conference, 100 have been Europeans, two from Spanish-American countries [2] and the balance have been divided among the rest of the world."

On November 29, 1919, the Latin American delegates were found solidly behind the resolution presented by Mr. Gemmill (South Africa) that "this conference expresses its disapproval of the composition of the Governing Body of the International Labor Office, inasmuch as no less than 20 of the 24 members of that body are representative of European countries." The vote showed 44 votes for, 39 against, with all the Latin American delegates voting for the resolution.

In 1922 an amendment to Art. 393 was adopted by 82 votes to 2. When it is effective, the Governing Body will be increased to 32 members, instead of 24. Of this enlarged body, one-half would be persons representing Governments, one-fourth persons representing employers, and one-fourth representing workers. Of the states upon the Governing Body eight would be, as before, the eight states of chief industrial importance, with eight instead of four to be selected by the Government delegates present at the Conference during which the election takes place. Under Art. 422 of the treaty, this amendment enters into force when ratified by three-fourths of the Member states, including those represented on the Council of the League.

By 1930 the total number of ratifications deposited with the Secretariat of the League of Nations was only 40, whereas 42 ratifications were necessary to make the amend-

[1] The election did not affect 24 places, but the four places reserved for elected Government delegates, after eight out of 12 Government seats were assigned to the states of "chief industrial importance."

[2] At least seven were from these countries.

ment effective. Of 33 states in 1927, only Cuba and Haiti of the Latin American states had signified ratification. Thus, the group which had, by memorandum in 1919 and later by vote, expressed a desire for this amendment were really preventing it from being an actuality.[1] By 1929 Italy's and Venezuela's ratifications were required to make the requisite 42 include the states represented on the Council.[2]

There were 12 draft conventions and recommendations passed at this first session at Washington, to which none of the Latin American states registered disapproval.

The second session, at Genoa in June–July, 1920,[3] dealt exclusively with problems relating to seamen, and it is not surprising to find that only four Latin American delegations were present, none of which was complete. Nor did the Latin Americans present play a large rôle, although Sr. Colmo, the Government delegate of Argentina, was prominent in the fight for the inclusion of an eight-hour day for sailors. Again, the Latin American states did not oppose any of the draft conventions and recommendations adopted.

At the third session held at Geneva in 1921,[4] questions concerning agriculture dominated the agenda. The Latin American states represented were eight in number, all delegates being governmental. No votes in opposition were registered by the Latin American delegates to the draft conventions or recommendations adopted. The vote on the draft convention "concerning weekly rest in industrial undertakings" stood 73 for and 24 against. Many of the larger states were included in those opposed, but all the Latin American delegates voted in favor.

At the fourth session held at Geneva in 1922,[5] eight Latin American states were again represented by Government delegates alone. On the proposal of Señor Rivas-Vicuña,

[1] *Report of the Director*, 1927, p. 25.

[2] *Ibid.*, 1929, p. 26.

[3] *International Labour Conference*, Second Session, 1920.

[4] *Ibid.*, Third Session, 1921.

[5] *Ibid.*, Fourth Session, 1922.

the Government delegate of Chile, the Conference adopted a resolution by which the Governing Body, when it considers that a question on its agenda is of particular interest to a state which is not represented on the Governing Body, may invite the Government of that state to appoint a delegate to take part in the discussion on that question, but without the right to vote. This was in keeping with Art. 4, par. 5, of the Covenant of the League of Nations in regard to the powers of the Council.

In his report to the session the Director of the International Labor Office stated that many states were slow in meeting their monetary obligations for the upkeep of the Organization. Up to September, 1922, he said, the following Latin American states had not paid any part of their contribution for the year 1922: Bolivia, Colombia, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay, Peru and Salvador. Furthermore, many states had not paid, at that time, for the year 1921: Argentina, Colombia, Costa Rica, Guatemala, Honduras, Nicaragua, Peru, Paraguay and Salvador.[1]

The fifth session, held at Geneva in 1923,[2] was a short session, due to the decision of the Governing Body to change the date of meeting from October to June of each year. Argentina was represented at this session for the first time since 1920. Again eight Latin American states attended, Chile having the only complete delegation.

The sixth session held at Geneva in June–July, 1924,[3] under the new and permanent provisions as decided upon by the Governing Body at the 1923 session, was attended by seven Latin American states, two of which sent complete delegations. During the session Señor Quezada (Chile) made an appeal for more constant and effective propaganda in Latin American countries for the International Labor Organization and stated that a visit by the Director of the Office to South America would be extremely beneficial in

[1] *Report of the Director to the Conference*, Fourth Session, 1922, p. 683. This report is after 1922, printed as Vol. II of the Conference records.

[2] *International Labour Conference*, Fifth Session, 1923.

[3] *Ibid.*, Sixth Session, 1924.

increasing interest there in the International Labor Office. Señor Negri (Argentina) heartily supported the invitation to the Director.[1] Such a visit was made in 1925.

It was announced that up to March 31, 1924, the following states had not paid any part of their contribution for 1923:[2] Bolivia, China, Colombia, Costa Rica, Honduras, Liberia, Nicaragua, Panama and Peru; and that Argentina, Costa Rica, Honduras and Nicaragua had not paid any part of their contributions due for 1921 and 1922.

Due to pressure from the International Labor Office for more complete representation at the Conference, the Latin American states showed a stronger representation at the session at Geneva in 1925 [3] than they had since 1919. The Latin American representation was from 13 states, three delegations being complete.

In a discussion as to the reason for the lack of complete delegations from Latin America, Carlos Y. F. Conci, Argentina's workers' delegate, said: "In many countries, and particularly in mine, the working men have not unlimited confidence in the International Labor Office, because they fear that it is an instrument of capitalism."[4] Sr. Zumeta of Venezuela added that:[5]

> With regard to the question of incomplete delegations, there are no employers' associations at all in my country and, apart from certain mutual benefit societies, there are no workers' organizations except a certain number of quite local groups recently created. . . . If the Venezuelan Government has not sent any non-Government delegates, the reason is that they could only be appointed under conditions which are contrary to Part XIII of the treaty . . . [The delegation] would be morally incomplete, for it would merely represent certain personal opinions or the opinions of certain local groups, and not the real opinions of the employers and workers of the country.

[1] *International Labour Conference*, Sixth Session, 1924, Vol. I, p. 41 *ff*.

[2] *Report of the Director*, 1924.

[3] *International Labour Conference*, Seventh Session, 1925.

[4] *Ibid.*, p. 152.

[5] *Ibid.*, p. 175.

It was at this session that there first appeared any opposition by Latin American states to draft conventions, having hitherto played a quiescent part in the passage of such documents. The draft convention concerning night work in bakeries was opposed by 26 votes, in which were included those of Argentina and Chile. They took the stand that "the baking industry is not one which is subject to international competition" and that "the difference between the baker who is the employer or who is a worker is so slight that it is exceedingly difficult to draw any line of demarkation."[1]

In his report to the session the Director of the International Labor Office announced that the Dominican Republic had entered the League on September 29, 1924, and thereby had become a member of the International Labor Organization. He called attention to the action of Costa Rica in having given notice on January 1, 1925, of retiring from the League and that it would cease to be a member of January 1, 1927. The Director also informed the conference that, inasmuch as Ecuador had not ratified the treaty of Versailles, it was considered that it should no longer be maintained on the list of the members of the Organization.[2]

The eighth session held at Geneva in 1926 [3] dealt with the inspection of emigrants on board ship. A questionnaire had been sent out by the Labor Office regarding the question of the "simplification of the inspection of emigrants on board ship." Twenty-seven countries answered this questionnaire, of which only three were Latin American, namely, Argentina, Brazil and Cuba. Seven Latin American states were represented, four by complete delegations.

Inasmuch as the Governing Body's term of three years had expired, elections were held at this session for new members. Since the amendment to Art. 393, which had been adopted in 1922, was not in effect, the election was

[1] *International Labour Conference*, Seventh Session, 1925, p. 345.

[2] *Report of the Director*, 1925.

[3] *International Labour Conference*, Eighth Session, 1926.

carried out under the original plan and for 24 members only. The election returned Argentina to the Government group. On the Employers' Group and the Workers' Group the Latin American states remained unrepresented.

The ninth session, also held at Geneva, 1926,[1] like the Genoa one of 1920, dealt with questions concerning the sea and seamen. Seven Latin American states, which took no important part in the discussions, were represented, four by complete delegations.

The tenth session was held at Geneva in 1927.[2] For the first time Uruguay had a complete delegation present, making four of the 10 American states represented with full quotas.

The 11th session showed an improvement. Fourteen of the Latin American republics were represented and Brazil sent a complete delegation although it withdrew from the League June 13, 1928, while the session was in course. The head of the Argentine delegation, Dr. Carlos Saavedra Lamas, was elected president. The Governing Body was elected for a third time, but on this occasion the Latin Americans made no complaint about the choices.

The 12th session in 1929, though Argentina was absent, was attended by 15 Latin American delegations, of which five were complete.

A clear idea of the participation of the American republics in the International Labor Organization can be gathered from the following table. Out of 12 sessions there have been only five in which as many as a majority of Latin America had representatives present. Those in which a majority of the Latin Americans were present were that of 1919, when the flush of the Great War still tinged the imagination of the world in general; in 1925 when the Director of the International Labor Office made a visit to South America; and the last three, before which special efforts to secure attendance were made.

[1] *International Labour Conference*, Ninth Session, 1926.

[2] *Ibid.*, Tenth Session, 1927.

ATTENDANCE AT THE CONFERENCE OF THE INTERNATIONAL LABOR ORGANIZATION

Year	Total Delegations	Complete Delegations	Latin America		
			Complete Delegations	Total Delegations	Absentees
1919 . .	40	24	4	16	4
1920 . .	27	16	0	4	16
1921 . .	39	25	0	8	12
1922 . .	39	20	0	8	12
1923 . .	42	23	1	8	12
1924 . .	40	24	2	7	13
1925 . .	46	29	3	13	7
1926 . .	39	28	4	7	13
1926 . .	38	27	4	7	13
1927 . .	43	32	4	10	10
1928 . .	46	35	5	14	6
1929 . .	50	37	5	15	5

Another consideration is the small amount of interest the great majority of the Latin American states are taking in the work that the International Labor Office is doing. As is well known, this office is a mine of information on social and economic matters gleaned from surveys and world-wide contact. In 1925 and 1926 only Argentina, Brazil and Chile made use of these facilities, and together they made but seven inquiries out of 800 received.

Conditions of labor which have been considered by the Organization have dealt very largely with industrial problems; it is, therefore, obvious that the Latin American states have possessed a varying degree of interest in the questions under consideration. Twelve sessions of the Conference have produced 29 draft conventions and 30 recommendations to Member states. The primary object of this body of agreement is to encourage the establishment of similar or cognate national conditions pertaining to

labor. As a consequence, there are several ways of responding to this effort.

(1) A draft convention may be ratified and becomes an international treaty binding upon a state as one of the parties; this may be done with or without conditions;

(2) It may be approved by a competent national authority, in which case national practice is likely to be adjusted to its terms;

(3) Submission to the competent national authority may be a step toward the preceding action, and is called for by Art. 405 of the treaty.

A state for constitutional or other reasons may not wish to take an international engagement in the terms of a draft convention, but may approve them by its own legislation. In taking this attitude,

(4) a state may have passed equivalent legislation prior to the adoption of the convention; or

(5) it may have taken national measures conforming to the agreement after the adoption of the convention.

Recapitulating the progress which the draft conventions and recommendations have made in the Latin American states, we find much the same stratification as elsewhere, that is, Argentina, Brazil, Chile, Cuba, Paraguay and Uruguay attempt to conform to the requirement of Art. 405, that draft conventions must be submitted to the competent authority. Cuba had ratified 16 out of 26 conventions up to March, 1930, and submitted all for consideration. Chile had ratified eight by decree of the President rather than through act of Congress, had submitted eight more for approval and had conformed its regulations to several more. Uruguay had submitted all to the competent authority for approval; Brazil and Paraguay had done so for six each. Bolivia had legislation pending on three, while Colombia had taken other measures to conform to the requirements of 27. Nicaragua had taken such measures respecting 10, Salvador respecting 7, Guatemala and Panama respecting 6 each and Haiti respecting 3. The remaining states give little or no evidence of interest in

putting into effect the conventions and recommendations which some of them have so readily agreed to at the sessions of the Conference.

The International Labor Office seems to be making an effort to stimulate greater cooperation on the part of the American states. The introduction to a recent publication of the Office contains the following:[1]

> We have frequently been reproached that we do not occupy ourselves sufficiently with America, that we are almost exclusively European, that we are not sufficiently documented, that we do not connect up with the numerous groups and individuals who are following the progress of social legislation in the Latin American countries, that we have not as yet established correspondent's offices in America, etc. These complaints which we have heard in various international conferences, and especially in the last, have deeply affected us and we desire to demonstrate in the greatest degree that the International Labor Office, as well as the League of Nations, is occupied with the problems of the entire world.

[1] Translated from *Legislación Social de América Latina*, International Labor Office, Geneva, 1928, Vol. I, p. 5.

INDEXES

IN view of the diversity of subjects treated in World Peace Foundation Pamphlets, Volume XII, individual indexes have been substituted for the single volume or three-volume cumulative types of index formerly included in the annual bound volumes.

The page numbers shown refer to the figures found in the upper right-hand corner of each pamphlet, and not to the parenthesized figures at the foot of the page.

Index for

NINE YEARS

OF THE

LEAGUE OF NATIONS

1920-28

(NINTH YEARBOOK)

By DENYS P. MYERS

VOL. XII NO. 1

INDEX

PAGE

Aaland Islands dispute..... 207
Abbott, Grace..... 139
Abyssinia:
budget unit of League of Nations 36
member of League of Nations... 14
Afghanistan:
nonmember of League of Nations 20
Air Navigation, International..... 71
Albania:
budget unit of League of Nations 36
dispute with Serb-Croat-Slovene State..... 209
member of League of Nations... 14
property and minority in Greece.....169–170
Ambassadors, Conference of..18, 199, 209
American Association for Prevention of Blindness..... 142
American Bureau of Social Hygiene:
contribution for inquiry on opium in Persia..... 135
contribution for suppression of traffic in women and children 139
American Council on Education:
contribution for inquiry into university exchanges..... 119
American Social Hygiene Association:
contribution for child welfare work..... 142
investigation into traffic in women..... 139
American University Union..... 118
Andorra:
invitation to accede to conventions of League..... 21
Anthrax, subcommittee on..... 100
Arbitration:
commercial disputes..... 54
protocol..... 55
Arbitration, security and disarmament:
aggressive wars, Assembly resolution on..... 201
committee on arbitration and security —
duties..... 201
General Act..... 202
meetings..... 217
mutual assistance and nonaggression, model conventions..... 203

PAGE

Archeological research..... 124
Argentina:
budget unit of League of Nations 36
member of League of Nations...14, 15
neutral in World War..... 1
Armament:
chemical warfare..... 195
Conference for the limitation of naval..... 191
interchange of information..... 192
private manufacture of arms and munitions of war..... 196
committee of experts on..... 217
see also League of Nations, private manufacture of arms.
permanent advisory commission on —
meetings..... 216
reduction of —
coordination commission..... 189
Covenant provision..... 186
supervision of international trade in.....193–195
temporary mixed commission for reduction of —
meetings..... 216
Armaments Year-Book..... 193
Armenia:
refugees in..... 145
scheme for refugee settlement in 146
Australia:
budget unit of League of Nations 36
mandate for Pacific Islands..... 156
mandate for Nauru..... 156
member of League of Nations... 14
Austria:
appeal for financial assistance, 1922..... 59
budget unit of League of Nations 36
currency reform..... 60
financial reconstruction —
loan under League auspices...58, 62
protocols signed Oct. 4, 1922..60, 62
member of League of Nations... 14

Baldwin, Stanley..... 188
Balfour, Lord:
member of committee on reconstruction of Austria..... 60
memorandum of May 19, 1920, on Secretariat.....34, 35

PAGE

Barcelona convention on régime of navigable waterways..... 96
Barcelona conference..... 97
Belgium:
budget unit of League of Nations 36
member of League of Nations... 14
Béneš, Eduard..... 60
Bern convention, 1890..... 97
Bergson, Henri..... 113
Bibliography, see League of Nations, Intellectual Cooperation.
Bills of exchange..... 57
Bolivia:
budget unit of League of Nations 36
member of League of Nations... 14
Bosporus, neutralization of..... 97
Bourgeois, Léon.....112, 113
Brazil:
claim for representation on Council..... 18
international school of public health in..... 107
member of League of Nations... 14
notice of withdrawal from League of Nations..... 14
Briand, Aristide.....19, 67
Briand-Kellogg pact..... 192
Brussels conference of 1889–90.... 162
Brussels International Financial Conference, 1920..... 44
Bulgaria:
budget unit of League of Nations 36
commission of inquiry on Bulgaro-Greek affairs..... 31
convention with Greece on reciprocal emigration, 1919.....68, 171
dispute with Greece.....212–213
Greco-Bulgarian mixed Commission.....68, 171
liquidation of Greek property... 68
loan under auspices of League 58, 149
member of League of Nations... 14
reconstruction plan..... 150
refugee settlement.....64–65, 149
stabilization loan protocols signed September 8, 1928.....65–66
Bulletin for University Relations... 118
Buoyage and lighting of coasts.... 80

Calendar reform:
international organizations to study question of..... 92
schemes for.....93–94
special committee of inquiry.... 92
view of churches as to..... 94
Canada:
budget unit of League of Nations 36
member of League of Nations... 14
Cancer, see League of Nations, Health Organization.
Caprivi Zipfel, mandate..... 156

PAGE

Carris, L. W..... 142
Central Commission for Rhine Navigation..... 71
Central Railway Transport Office.. 71
Chalcography..... 122
Chemical warfare, protocol.....195–196
Child welfare, see League of Nations.
Chile:
budget unit of League of Nations 36
member of League of Nations... 14
neutral in World War..... 1
China:
budget unit of League of Nations 36
member of League of Nations... 14
Christian Union of Transport Workers..... 71
Ciraolo, Giovanni:
proposal for international relief organization..... 150
Codification of international law, see League of Nations.
Colombia:
budget unit of League of Nations 36
member of League of Nations... 14
neutral in World War..... 1
Communications and transit:
conference held at Paris, 1920... 70
Covenant provision for..... 70
general conferences, list of..... 71
United States expenses for conference on..... 39
see also League of Nations, Organization for Communications and Transit.
Conference of Press Experts, see League of Nations.
Conference of South American Experts on Child Welfare, June, 1927..... 106
Conference on Traffic in Arms, 1925:
United States payment for..... 39
Conferences:
communications and transit.....39, 71
disarmament..... 39
hides, skins and bones..... 50
import and export prohibitions.. 39
opium..... 39
traffic in arms..... 39
Congress of Popular Arts, Prague, 1928..... 122
Convention for supervision of international trade in arms.....193–195
Convention on Execution of Arbitral Awards, 1927..... 55
Corfu incident..... 211
Costa, Affonso Augusto da..... 215
Costa Rica:
budget unit of League of Nations 36
member of League of Nations...14, 15

PAGE

Costa Rica — Continued.
notice of withdrawal from League of Nations..... 14
request for League interpretation of Monroe doctrine.....15–16
Court of International Justice, the Permanent:
advisory opinions —
European Commission of Danube..... 95
Polish postal service in Danzig 179
election of judges..... 22
optional clause of Statute..... 204
Protocol of Signature..... 22
rights of minorities in Upper Silesia..... 169
Cuba:
budget unit of League of Nations 36
member of League of Nations... 14
Curie, Mme. Marie..... 113
Customs formalities, international convention on:
agreements reached..... 53
annual reports..... 54
disputes, arbitration of..... 54
international office at Brussels for publication of..... 54
Czechoslovakia:
budget unit of League of Nations 36
dispute over Jaworzina frontier. 209
member of League of Nations... 14

Damascus bombardment..... 161
Dandurand, Raoul..... 215
Danube river:
European Commission of..... 84
investigations made by Committee for Communications and Transit.....84–85
Danzig, Free City of:
agreement with Poland, Oct. 24, 1921..... 177
constitution..... 174
convention with Poland, Nov. 9, 1920..... 175
high commissioner..... 175
loans under auspices of League..58, 65
provision of peace treaty regarding.....65, 174
treaty with Poland, Aug. 4, 1928 179
see also League of Nations.
Dardanelles, neutralization of..... 97
Dawes Plan..... 187
Denmark:
budget unit of League of Nations 36
member of League of Nations... 14
neutral in World War..... 1
Disarmament conference, preparatory commission for, see League of Nations.
Disputes, pacific settlement of..... 205

PAGE

Dominican Republic:
budget unit of League of Nations 36
member of League of Nations... 14
Double taxation, see League of Nations, Economic and Financial Organization.
Drugs, unification of formulas..... 107
Drummond, Sir Eric..... 32

Eastern Carelian dispute..... 209
Economic Conference, International, see International Economic Conference.
The Economic Situation of Austria, by Walter T. Layton and Charles Rist..... 62
Economic statistics, see Statistics, economic.
Ecuador:
nonmember of League of Nations 20
Edwards, Agustín..... 215
Egypt:
nonmember of League of Nations 20
Einstein, Albrecht..... 113
Electric questions, see League of Nations, Organization for Communications and Transit.
Emigration Commissions.....68, 171
Epidemics.....100–104
Estonia:
budget unit of League of Nations 36
financial reconstruction of..... 67
loan under auspices of League... 58
member of League of Nations... 14
European Commission of the Danube..... 95
European Health Conference, Warsaw, 1922.....101–102
European War, see World War.

Federation of P. E. N. Clubs..... 123
Financial Committee, see League of Nations, Economic and Financial Organization.
Financial reconstruction, see League of Nations.
Finland:
Aaland Islands dispute..... 207
budget unit of League of Nations 36
Eastern Carelian dispute..... 209
member of League of Nations... 14
Foreign Arbitral Awards, see Convention on execution of foreign arbitral awards.
Foreign nationals, treatment of.... 57
France:
budget unit of League of Nations 36
commercial treaty with Germany, August 17, 1927..... 174
mandate for Syria and Lebanon. 155
member of League of Nations... 14

PAGE

France — Continued.
Saar Basin under control of...172–173
Francisci, Pietro de..... 185
Franco-German commercial treaty, August 17, 1927..... 174
Friends of the League of Nations:
contribution made for child welfare work..... 142

Galsworthy, John..... 123
Geneva Protocol for Pacific Settlement of International Disputes 187
Germany:
application for admission to League of Nations.....16–17
armament forces regulated by treaty of Versailles..... 18
budget unit of League of Nations 36
commercial treaty with France, August 17, 1927..... 174
condition respecting Art. 16 of Covenant..... 16
convention with Poland on administration of Upper Silesia.. 211
date of admission to League of Nations..... 18
member of League of Nations... 14
minority schools in Upper Silesia 169
Godet, Marcel..... 120
Great Britain:
budget unit of League of Nations 36
Iraq boundary dispute..... 210
mandate for Trans-Jordania...153–154
member of League of Nations... 14
Ministry of Health —
conference on health organization of League, 1920..... 98
Greco-Bulgarian emigration Commission..... 171
Greece:
Abanian property and minority in.....169–170
budget unit of League of Nations 36
commission of inquiry on Bulgaro-Greek affairs..... 31
convention with Bulgaria regarding emigration.....68, 171
Corfu incident..... 211
dispute with Bulgaria.....212–213
epidemic in..... 101
Greco-Bulgarian emigration commission.....68, 171
liquidation of Bulgarian property 68
loan under auspices of League.....58, 64, 147
member of League of Nations... 14
mixed commission on Greco-Turkish exchange of populations 32
Moslems in..... 170
refugee settlement —
building construction..... 148

PAGE

Greece — Continued.
Settlement Commission.....146–149
stabilization and refugee loan... 66
Guani, Alberto..... 215
Guatemala:
budget unit of League of Nations 36
member of League of Nations... 14

Haiti:
budget unit of League of Nations 36
member of League of Nations... 14
Hamel, Joost van..... 176
Hanotaux, Gabriel 60
Health Conference, European, 1922.....101–102
Health insurance..... 111
Health Organization, see League of Nations.
Herriot, Edouard..... 187
Hides and bones:
conferences for abolition of export prohibitions on..... 52
Hines, Walker D.:
reports on Danube and Rhine navigation.....84–85
Holiday Courses in Europe..... 119
Honduras:
budget unit of League of Nations 36
member of League of Nations... 14
Hungary:
budget unit of League of Nations 36
financial reconstruction —
loan.....58, 64
protocols presented by Financial Committee, provisions of.....63–64
resolution of Reparation Commission, Oct. 17, 1923..... 63
schedule for..... 64
Jewish minority in..... 168
loan under auspices of League...58, 64
member of League of Nations... 14
Mixed Rumanian and Hungarian Arbitral Tribunal..... 213
property rights in Rumania..... 167
railway disputes..... 96
Szent-Gotthard incident..... 200
Hydraulic Danube Commission.... 71
Hydraulic power, convention, 1923.90–91
Hydrographic Bureau..... 80
Hymans, Paul..... 215

Iceland:
invitation to accede to conventions of League..... 21
Imperiali, Marquis..... 60
Import and export prohibitions and restrictions, conference on:
conditions of entry into force.... 52
first multilateral treaty regulating commercial relations..... 51
problems discussed..... 51

PAGE

Import and export prohibitions and restrictions, conference on — Continued.
supplementary agreement, states signatories..... 51
United States expenses for..... 39
Index Bibliographicus..... 120
India:
budget unit of League of Nations 36
member of League of Nations... 14
Industrial property, international convention for protection of... 56
Infant mortality.....106, 110
Infant Welfare, Committee of Health Experts on..... 110
Influenza epidemic..... 104
Inland navigation, see Navigation, inland.
Institute of Intellectual Cooperation:
artistic relations section..... 117
arts and letters, subcommittee on 121
bibliography, coordination of..120, 121
budget..... 117
casts of works of art..... 122
central office..... 119
chalcography..... 122
establishment.....114, 116
general information on..... 114
Governing Body..... 116
Index Bibliographicus..... 120
information and reference section 117
legal section..... 117
libraries, coordination of..... 121
linguistic terms, standardization of..... 121
literary relations section.....117, 123
manuscripts, preservation of.... 121
motion pictures..... 122
museums..... 122
music..... 123
national delegates.....114, 117
object..... 117
popular arts..... 122
research..... 121
scientific relations section.....117, 120
seat of..... 116
students' organizations..... 119
university relations section..... 117
Intellectual Cooperation, Committee on, see League of Nations.
Intellectual rights.....123–125
Interallied Military Commission of Control..... 199
Inter-American High Commission.. 55
International Air Traffic Association..... 71
International Association for Promotion of Child Welfare...138, 140
International Astronomical Union: work on calendar reform..... 92
International Broadcasting Union. 71

PAGE

International Central Railway Transport Office..... 71
International Chamber of Commerce.....46, 71, 92
International Cinematographic Institute..... 142
International Commission for Air Navigation..... 71
International Conference for the Suppression of Obscene Publications, Geneva, 1923..... 143
International Conference for the Unification of Economic Statistics..... 56
International Conference for the Unification of the Formulae of Powerful Drugs, 2d, 1925..... 108
International Convention for the Protection of Industrial Property..... 56
International Council of Women... 141
International Economic Conference:
Assembly resolution..... 45
delegates..... 47
Final Report.....48, 49
organization..... 45
Preparatory Committee — appointment..... 46
members..... 46
work of..... 47
recommendation on tariff nomenclature..... 57
temporary subcommittees of experts for..... 45
International Exhibition of Popular Arts, Bern, 1928..... 122
International Federation of Transport Workers..... 71
International Federation of University Women.....119, 141
International Financial Conference, Brussels, 1920..... 44
International Health Year-Book.... 100
International Institute for Unification of Private Law..... 184
International Institute of Education..... 118
International Institute of Intellectual Cooperation, see Institute of Intellectual Cooperation.
International Institute of Statistics.....56, 125
International Labor Office, see International Labor Organization.
International Labor Organization:
employment of refugees..... 145
International Labor Office..... 71
International law, see League of Nations, codification of international law.

PAGE
International Museums Office..... 122
International Oder Commission...95–96
International Office for Publication of Customs Tariffs, Brussels... 54
International organizations, status of..... 124
International Pacific Health Conference, 1926..... 107
International Rabies Conference, April, 1927..... 109
International Railway Union..... 71
International Relief Union.....151–152
see also League of Nations.
International River Commissions.. 71
International Shipping Conference. 71
International Student Service..... 119
International Students' Confederation..... 119
International Students' Organizations, Committee of Representatives of:
sessions.....119–120
International Suffrage Alliance.... 141
International Union of Railway Administration..... 71
International University Federation for the League of Nations..... 119
International University Information Office..... 117
Investigation, right of.....197–199
Iraq:
dispute over boundary of..... 210
mandated to Great Britain..... 154
refugees in..... 146
Irish Free State:
budget unit of League of Nations 36
member of League of Nations... 14
Italy:
budget unit of League of Nations 36
Corfu incident..... 211
member of League of Nations... 14

Japan:
budget unit of League of Nations 36
cooperation with Health Organization of League..... 107
mandate for Pacific Islands..... 156
member of League of Nations... 14
Jaworzina frontier, dispute over... 209
Johnson, Bascom..... 139
Journalism.....73–76

Karnebeek, Jonkheer van..... 215
Kellogg, Frank B..... 19
Kellogg pact for renunciation of war 192

Latin America:
investigation of infant mortality in..... 111
Latvia:
budget unit of League of Nations 36
member of League of Nations... 14

PAGE
Lausanne convention, January 30, 1923..... 171
Lausanne, Treaty of.....146, 153, 210
Layton, Walter T.:
report to Council on economic situation of Austria..... 62
League of Nations:
admission of Germany to..... 18
Advisory and Technical Committee for Communications and Transit.....71–73
Advisory Commission for Protection and Welfare of Children and Young People..... 220
Advisory Committee on Traffic in Opium and Other Dangerous Drugs.....133–135
see also Opium.
arbitration —
Assembly action on..... 204
mutual assistance and nonagression..... 203
see also Arbitration, security and disarmament.
armaments, reduction of —
coordination commission..... 189
Covenant provisions on..... 186
draft treaty of mutual assistance..... 187
permanent advisory commission..... 190
right of investigation.....197–199
temporary mixed commission for.....187, 189, 216
assembly —
action of Ninth session on arbitration..... 204
administrative tribunal set up by Seventh..... 33
admission of Germany by Seventh..... 18
Agenda Committee..... 23
committees..... 23
election of nonpermanent members of Council.....29–31
functions.....21–22
General Committee..... 23
meetings.....21, 215
members..... 21
organization..... 21
procedure.....23–24
report of First on delegates to 21
resolutions —
adopted by Eighth on Economic Conference.....45–46
adopted by Ninth on Codification of international law..... 183
conciliation..... 202
foreign nationals, May, 1925 56
import and export prohibitions..... 51

PAGE

League of Nations — Continued.
intellectual cooperation..... 112
moving pictures..... 122
obscene publications..... 143
Secretariat.....34, 35
wars of aggression..... 201
vote..... 21
Assembly Hall.....39–40
Barcelona conference.....71–72
bibliography, subcommittee on.. 120
budget and financial questions, committee on..... 23
budgets, 1920–29..... 37
refunds..... 38
buildings, new.....39–40
Bulgarian refugee and stabilization loans.....64, 149
buoyage and lighting of coasts.. 80
calendar reform.....92–94, 219
cancer commission..... 111
chemical warfare..... 195
Child Welfare Committee —
blindness, prevention of..... 142
contributions to..... 142
"declaration of Geneva"...140–141
illegitimacy..... 142
juvenile courts..... 142
legal age of marriage and consent..... 143
liaison subcommittee..... 142
minors, relief of..... 142
organization.....140–141
codification of international law —
committee of experts — questions submitted to...182–183
committee of jurists..... 179
conference..... 181
nationality..... 181
responsibility of states for damages..... 181
systematic survey on..... 184
territorial waters..... 181
Commission of Control, see League of Nations, Supervisory Commission.
Commission on, at Peace Conference..... 1
Commissioner-General —
functions of financial reconstruction of Austria..... 61
Committee of Ports, Waterways and Railways..... 70
Committee of Telegraphic and Press Experts..... 74
committee on allocation of expenses.....35–36
communications and transit, see Organization for Communications and Transit.
Conference of Press Experts —
censorship.....75–76

PAGE

League of Nations — Continued.
customs regulations..... 74
journalists.....75–76
meeting..... 73
members.....73–74
published news..... 75
resolutions.....74–76
unpublished news..... 75
Conference of South American Experts on Child Welfare, June 7, 1927..... 106
Conference on Control of Trade in Arms, 1925..... 196
Conference on import and export prohibitions and restrictions, see Import and export prohibitions and restrictions, conference on.
Congress of Popular Arts, Prague, 1928..... 122
Consultative Economic Committee, meeting..... 218
correspondence with United States.....19–20
Council —
action on Danzig questions 178–179
agenda..... 26
appointment of arbitrators to settle railway disputes.....96–97
appointment of committee of experts for progressive codification of international law 180
appointment of Permanent Central Board on Opium... 130
Committee on Composition of..... 29
counterfeiting currency..... 67
creation of financial and economic organization..... 44
Danzig loans..... 65
decision as to Westerplatte Peninsula..... 176
disputes.....207–214
Estonian banking reform..... 67
functions..... 25
items handled by..... 26
meetings.....215–216
minority disputes.....166–170
nonpermanent members.....28–31
organization.....24–25
permanent members..... 24
powers and duties..... 25
president..... 26
procedure.....26–27
rapporteurs, list of.....27–28
reply to Costa Rica on an interpretation of Monroe doctrine.....15–16
resolutions —
disarmament of Danzig..... 176
minorities.....165, 171
right of investigation.....198–199

PAGE

League of Nations — Continued.
sessions, question of reduction of....26–27
Szent-Gotthard incident..... 200
temporary members.....24, 31
vote..... 26
counterfeiting currency —
conference to be held April 9, 1929..... 68
draft convention..... 68
letter of M. Briand on..... 67
mixed committee on..... 67
Covenant —
Art. 4.....24, 29, 31
Art. 8 on reduction of armament..... 186
Arts. 11–14..... 205
Art. 18 on registration of treaties.....32, 41
Art. 22 on mandates..... 152
Art. 23.....70, 128, 136
date of coming into force..... 2
engagements under..... 2–5
Germany's condition respecting Art. 16.....16–17
provisions with regard to traffic in opium..... 128
states accepting..... 2
withdrawals..... 2
customs formalities, international convention on..... 53
Danzig, Free City of —
disarmament of.....175–176
foreign relations of..... 175
Polish rights in.....177–179
Westerplatte Peninsula..... 176
see also Danzig, Free City of.
"Declaration of Geneva" on promotion of child welfare..... 140
delegates..... 19
Disarmament conference, preparatory commission for —
composition..... 190
meetings..... 217
naval cruiser tonnage..... 191
sessions..... 191
United States share of expenses for..... 39
work of..... 191
disputes handled by.....207–214
double taxation.....69–70, 218
Economic and Financial Organization —
bills of exchange..... 57
Bulgarian refugee settlement loan..... 64
counterfeiting currency..... 67
customs tariffs.....50–51
double taxation.....69–70, 218
Economic Committee —
commercial disputes, protocol for arbitration of.....54–55

PAGE

League of Nations — Continued.
commercial policy, work regarding..... 50
committee of customs experts 57
committee on foreign arbitral awards..... 55
Council provision for..... 46
meetings..... 218
membership..... 46
resolution of Eighth Assembly with regard to..... 45
simplification of customs formalities..... 53
tariffs, international action regarding..... 50
treatment of foreign nationals..... 56
treaty-making methods..... 50
Economic Consultative Committee.....46–49
Estonian banking reform..... 67
Financial Committee —
Central bank statistics..... 69
liquidation of Greco-Bulgarian property..... 68
meetings..... 217
work of..... 58
foreign nationals, treatment of..... 56
Greek refugee settlement.....64, 66
loan contracts..... 58
statistics..... 56
tax evasion, conventions on... 70
unfair competition.....55–56
emigration between Greece and Bulgaria.....68, 171
epidemic commission..... 101
establishment..... 1
Estonian banking and currency reform..... 67
expenditure, see League of Nations, finances.
finances —
allocation of expenditure.....35–38
see also budget.
Financial Committee, see Economic and Financial Organization.
financial reconstruction —
Austria.....59–63
banking and currency in Estonia..... 67
Bulgarian stabilization loan 64–66, 149
Danzig loans..... 65
Greek refugee settlement loan.....64, 66, 148
Hungary.....63–64
see also, Hungary, financial reconstruction.
international credits scheme.. 59
foreign nationals, treatment of.. 57

PAGE

League of Nations — Continued.
Greco-Bulgarian emigration commission....68, 171
Greek stabilization and refugee loan....66, 148
growth.... 13
Health Organization —
Advisory Council.... 99
anthrax, subcommittee on.... 100
cancer commission.... 111
commission on education in hygiene and preventive medicine.... 106
committee on a standard million population.... 100
composition.... 99
Conference of South American Experts on Child Welfare, June, 1927.... 106
Covenant provisions for.... 98
epidemic activities....100–104
Epidemiological Report.... 103
functions....99–100
Health Committee —
meetings....99, 219
membership.... 99
infant mortality....106, 110
influenza epidemic.... 104
insurance, its relation to public health services.... 111
interchange of public health officials....104–106
International Pacific Health Conference, Dec. 15, 1926... 107
International Rabies Conference, 1927....108–109
Japanese cooperation with.... 107
lymph, study of.... 100
malaria commission....105, 109–110
Office international d'Hygiène publique, cooperation with..98–99
opium commission.... 100
proposed school for infant hygiene.... 106
Provisional Health Committee 99
publications.... 100
quarantine disinfection of ships 100
sanitary convention of 1926... 104
scholarships.... 105
Singapore Bureau....103–104
sleeping sickness in Africa.... 112
smallpox commission.... 100
standardization of sera.... 107
"still-birth," study of.... 100
training courses....105–106
tuberculosis in Africa.... 112
vaccination commission.... 100
hides and bones.... 52
Hungarian optants in Rumania.. 167
hydraulic power, development of.90–91
identity documents for persons without nationality.... 79

PAGE

League of Nations — Continued.
Infant Welfare, Committee of Health Experts on.... 110
inland navigation....83–86
instruction of youth....126–127
Intellectual Cooperation, Committee on —
appointment.... 113
archeological research.... 124
arts and letters, subcommittee on.... 114
bibliography, subcommittee on 114
circulation of publications.... 125
Committee of Representatives of International Students' Organizations.... 119
development.... 113
educational information centers 126
Institute of Intellectual Cooperation, see Institute.
instruction of youth, subcommittee of experts....125–126
intellectual property, subcommittee on.... 114
intellectual rights, subcommittee on.... 123
literary and artistic property, subcommittee on.... 124
meetings.... 219
members.... 113
National Committees.... 115
science and bibliography, subcommittee on....120–121
scientific property, protection of....123–124
statistics.... 125
status of international organizations.... 124
university relations, subcommittee on....114, 117
International Conference for the Unification of the Formulae of Powerful Drugs, 2d, 1925.... 108
International Labor Organization —
employment of refugees.... 145
International Museums Office... 122
International Rabies Conference, April, 1927....108–109
International Relief Union....151–152
investigation, right of....197–199
library.... 40
Malaria Commission....109–110
mandated territories —
application of treaties.... 160
capital.... 160
classes....153–156
Covenant provisions for.... 152
definition....152–153
equality of treatment.... 159
liquor traffic.... 159
military recruiting.... 159

PAGE

League of Nations — Continued.
nationality..... 159
Permanent Mandates Commission.....156–157
petitions..... 158
state land..... 159
status of..... 158
members —
admitted.....13, 14
original..... 2, 13
minorities —
bilateral treaties..... 164
disputes.....167–169
emigration commissions..... 171
petitions.....165–166
provisions of peace treaty...164–165
states under régime..... 163
mixed committee on counterfeiting of currency..... 67
nonmembers..... 20
obscene publications, convention of 1923 on.....143–144
opium —
advisory committee —
meetings..... 219
Cavazzoni proposal..... 136
commission of inquiry on Persian production..... 135
conventions of 1925.....129–132
second conference..... 129
United States share of expenses..... 39
see also Advisory Committee on Traffic, and Opium.
Organization for Communications and Transit —
advisory and technical committee —
membership..... 72
work of.....73, 95
air transport..... 74
calendar reform..... 92
conventions and statute —
freedom of transit..... 76
international régime of maritime ports..... 82
régime of navigable waterways..... 80
régime of railways..... 87
customs regulations..... 74
disputes, adjustment of..... 95
electric questions.....89–91
General Conferences..... 71
identity documents..... 79
inland navigation.....83–86
maritime flag..... 83
passports..... 74
ports and maritime navigation 79–83
railroad systems..... 96
rail transport.....74, 86–89, 96
road traffic.....91–92

PAGE

League of Nations — Continued.
straits commission.....97–98
Third General Conference....73, 79
transit, statute on freedom of..76–77
wireless station..... 89
organs.....21–35
pacific settlement of disputes..205–214
passport conference.....77–79
Permanent Advisory Commission on Armaments..... 216
Permanent Advisory Commission on Military, Naval and Air Questions..... 177
Permanent Mandates Commission —
constitution..... 156
meetings.....157, 220
petitions..... 158
ports and maritime navigation..79–83
Press Experts Conference, see Conference of Press Experts.
printing and publications department..... 33
private law, unification of.....184–185
private manufacture of arms and munitions of war..... 196
public health personnel, interchange of.....104–106
rail transport.....86–89
refugees —
Armenian settlement scheme.. 146
Bulgarian settlement loan...64, 145
expenditure for repatriation of 145
Greek settlement scheme....64, 145
identity certificates for..... 79
Russian and Armenian problem..... 145
Saar Basin —
advisory council..... 172
Franco-German commercial treaty, August 17, 1927..... 174
French troops in..... 173
Governing Commission.....97, 173
peace treaty provision for administration of..... 172
railroads..... 97
technical council..... 172
Secretariat —
administrative commissions... 33
administrative tribunal for Staff disputes..... 33
appointment to..... 32
Deputy Secretary-General.... 33
distribution of documents..... 33
drafting committee..... 33
functions..... 32
internal administration..... 33
interpreters and translators... 33
library..... 33
minorities questions..... 33
opium traffic..... 33

PAGE

League of Nations — Continued.
organization..... 32
period of office..... 34
personnel..... 32
qualifications..... 34
registry..... 33
seat..... 32
Secretary-General..... 32
sections..... 33
social questions..... 33
staff list..... 33
Under Secretaries-General.... 33
sera, standardization of..... 107
slavery..... 220
statistics, central banks..... 69
Straits Commission.....97–98
supervisory commission —
election..... 39
organization..... 38
Szent-Gotthard incident..... 200
tariff nomenclature..... 57
telegraphic and press experts, special committee on..... 74
telegraphic and telephonic communication..... 89
tonnage measurement, technical committee for maritime..... 80
treaties, registration of..... 42
Treaty Series.....41–42
units allocated to Member states 36
veterinary questions..... 52
wireless station..... 89
withdrawals..... 14
women and children, traffic in —
advisory committee..... 138
conferences..... 136
contribution by American Bureau of Social Hygiene for suppression of..... 139
investigations on..... 139
protection of children, see Child Welfare Committee.
Special Body of Experts, report..... 139
working capital fund..... 37
League of Red Cross Societies.... 100
Lebanon:
mandated to France..... 155
refugees in..... 146
Liberia:
budget unit of League of Nations 36
member of League of Nations... 14
Libraries, coordination of..... 121
Liechtenstein:
application for admission to League of Nations..... 20
Literary and artistic property:
conventions for protection of.... 124
Lithuania:
budget unit of League of Nations 36
dispute with Poland.....207–209

PAGE

Lithuania — Continued.
member of League of Nations... 14
Polish minority in..... 168
transfer of Memel to..... 212
Loans, international:
list of..... 58
Locarno Conference..... 188
London Conference on Reparations 187
London Health Conference..... 101
Lorentz, Prof. H. A..... 113
Luxemburg:
budget unit of League of Nations 36
member of League of Nations... 14

MacDonald, J. Ramsay..... 187
McLaren, Walter W..... 119
Malaria Commission of League of Nations.....109–110
Mandates, see League of Nations, mandated territories.
Maritime flag..... 83
Maritime navigation.....79–83
Maritime ports:
convention and statute.....82–83
Marmora, Sea of..... 97
Memel convention..... 212
Mesopotamia, see Iraq.
Methodology, Preparatory Committee on Statistical..... 56
Mexico:
nonmember of League of Nations 20
observer at International Economic Conference..... 47
Millikan, Robert Andrews..... 113
Minorities, see League of Nations.
Mixed Commission on the Greco-Turkish Exchange of Populations..... 32
Mixed Greco-Bulgarian Emigration Commission..... 68
Monaco:
application for admission to League of Nations..... 20
Monroe doctrine:
Art. 21 of Covenant of League with reference to..... 16
request of Costa Rica for League interpretation of.....15–16
Monthly Bulletin of Statistics..... 44
Morgenthau, Henry..... 147
Motion pictures..... 122
Motta, Giuseppe..... 215
Murray, Gilbert A..... 113
Mutual Assistance and Nonaggression, Model Conventions..... 203

Nansen, Dr. Fridtjof:
identity certificates inaugurated by..... 79
refugee work.....145, 146
National Research Council..... 120

PAGE
Nauru, mandate..... 156
Naval Armaments, Conference for Limitation of..... 191
Navigable waterways, convention and statute.....80–82
Navigation, inland:
committees.....83, 84
conference, Paris, 1925..... 83
conventions..... 83
Danube and Rhine inquiries....84–85
vessel measurements, convention, 1925..... 85
Nejd, Sultanate of:
nonmember of League of Nations 20
Netherlands:
budget unit of League of Nations 36
member of League of Nations... 14
neutral in World War..... 1
New Zealand:
budget unit of League of Nations 36
mandate for Western Samoa.... 156
member of League of nations.... 15
Nicaragua:
budget unit of League of Nations 36
member of League of Nations... 15
Ninchich, Momchilo.....19, 215
Norway:
budget unit of League of Nations 36
member of League of Nations... 15
neutral in World War..... 1
Notable Books..... 118

Oder River system.....95–96
Office international d'Hygiène publique.....98–99
Official Vital Statistics..... 100
Opium:
Advisory Committee on Traffic in Opium, see League of Nations.
Cavazzoni proposal..... 136
commission of inquiry on Persian production.....135–136
conferences..... 128
control of manufacture..... 130
conventions of 1912 and 1925, ratifications.....128–129
Far Eastern control.....132–133
First Conference.....132–133
illicit traffic 134–135
medical and scientific uses of.... 134
Permanent Central Board....130–131
Persian Government's efforts to curtail production of..... 135
proposed conference..... 133
Second Conference — United States payment for.... 39
United States resolution of March 2, 1923..... 134
Organisation of Public Health Services..... 100

PAGE
Palestine, mandate.....61, 158
Panama:
budget unit of League of Nations 36
member of League of Nations... 15
Paraguay:
budget unit of League of Nations 36
member of League of Nations... 15
Passport Conferences.....77–79
Pasteur Institute, Paris..... 108
"Pax Romana"..... 119
Peace:
Covenant provisions for maintenance of..... 2–5
Peace Conference, Paris, 1919:
appointment of Commission on the League of Nations..... 1
committee of ports, waterways and railways..... 70
Covenant of League of Nations accepted by..... 1
mandates..... 153
minorities treaties..... 163
resolution on creation of League of Nations..... 1
Permanent Advisory Commission on Armaments..... 190
Permanent Advisory Commission on Military, Naval and Air Questions..... 177
Permanent Committee for Ports and Maritime Navigation..... 79
Permanent Committee for Transport by Rail.....86–87
Permanent Committee on Electric Questions..... 89
Permanent Court of International Justice, see Court of International Justice, The Permanent.
Permanent Mandates Commission, see League of Nations.
Permanent Technical Hydraulic System Commission of the Danube..... 71
Persia:
budget unit of League of Nations 36
member of League of Nations... 15
opium production..... 135
Peru:
budget unit of League of Nations 36
member of League of Nations... 15
Poland:
agreement with Danzig of October 24, 1921..... 177
budget unit of League of Nations 36
convention with Danzig, Nov. 9, 1920..... 175
dispute with Lithuania.....207–209
Germano-Polish convention..... 211
Jaworzina frontier dispute..... 209
member of League of Nations... 15
minority dispute in Lithuania... 168

PAGE

Poland — Continued.
postal service in Danzig.....178–179
relations with Danzig.....177–178
treaty with Danzig, Aug. 4, 1928 179
Political questions, Committee on 23
Popular arts..... 122
Portorose Conference of Succession States, 1921..... 86
Portugal:
budget unit of League of Nations 36
member of League of Nations... 15
Preparatory Commission for Disarmament Conference, see League of Nations, disarmament conference.
Press Experts Conference, see League of Nations, Conference of Press Experts.
Private Law, International Institute for Unification of.....184–185
Prostitution, see League of Nations, Women and Children, Traffic in.
Protocol for pacific settlement of international disputes..... 22
Publicity, memorandum on..... 41

Rabies, see League of Nations, Health Organization.
Radiotelegraph Conference, Washington, 1927..... 89
Railroad disputes.....96–97
Railways, convention and statute on international régime of....87–88
Rault, M. V..... 173
Red Cross organizations:
Art. 25 of Covenant regarding.. 98
refugee work of American..... 147
Red Cross Societies, League of.... 100
Relief Union, see League of Nations, International Relief Union.
Reparation:
London conference, August, 1924.....16, 187
Reparation Commission:
resolution on reconstruction of Hungary, Oct. 17, 1923..... 63
Rhine navigation..... 85
Rist, Charles:
report to Council on economic situation of Austria..... 62
Road traffic.....91–92
Rockefeller, John D., Jr.:
gift of League library..... 40
Rockefeller Foundation, International Health Board..... 105
Rumania:
agrarian law..... 167
budget unit of League of Nations 36
Hungarian property rights in.... 167
member of League of Nations... 15

PAGE

Rumania — Continued.
Mixed Hungarian and Rumanian Arbitral Tribunal..... 213
railway disputes..... 96
Russia, see Soviet Union.

Saar Basin, see League of Nations.
Safety at sea:
international convention on, London, 1914..... 80
proposed conference..... 80
St. Germain, Treaty of.....160, 193
Salvador:
budget unit of League of Nations 36
member of League of Nations... 15
San Marino:
application for admission to League of Nations..... 20
Sanitary conventions, 1907, 1926..98, 104
Sarrail, General..... 162
Schramm, Prof. Jacob R..... 120
Scialoja, Vittorio..... 185
Science and bibliography:
international convention of March 15, 1886..... 120
Scientific property, protection of.123–124
Seipel, Premier.....59, 60
Sera, standardization of:
conferences on.....107–108
Serb-Croat-Slovene State:
budget unit of League of Nations 36
dispute with Albania..... 209
member of League of Nations... 15
Sèvres, Treaty of, August 10, 1920 153
Siam:
budget unit of League of Nations 36
member of League of Nations... 15
Singapore Bureau of Epidemiological Intelligence..... 104
Slavery convention, Sept. 25, 1926 22,162
Sleeping sickness, see League of Nations, Health Organization.
Smallpox commission..... 100
Smith, Jeremiah E., Jr.:
Commissioner-General of the League of Nations for Hungary 64
Somervell, Major Brehon B..... 84
South Africa, Union of:
budget unit of League of Nations 36
mandate for Southwest Africa... 156
member of League of Nations... 15
Soviet Union:
Eastern Carelia dispute..... 209
refugees in..... 146
Spain:
budget unit of League of Nations 36
member of League of Nations... 15
Statistics:
commission appointed by Council at Rome, 1920..... 43

PAGE

Statistics — Continued.
conference on international co-operation in, London, 1919.... 43
economic —
international conference for unification of, 1928..... 56
Preparatory Committee on Statistical Methodology.... 56
intellectual..... 125
international institute of —
meeting at Cairo, 1927..... 28
meeting of Central Banks for study of, Paris, April, 1928... 69
Stephens, George W..... 173
Straits Commission.....97–98
Stresemann, Dr. Gustav..... 19
Students' Organizations, International..... 119
Sudan:
invitation to accede to conventions of League of Nations.... 21
Supreme Council of the Allied Premiers:
appeal for financial assistance by Austria..... 59
Supreme Economic Council..... 44
Supreme War Council..... 44
Sweden:
Aaland Islands dispute..... 207
budget unit of League of Nations 36
member of League of Nations... 15
neutral in World War..... 1
Switzerland:
budget unit of League of Nations 36
member of League of Nations... 15
neutral in World War..... 1
Syria:
bombardment of Damascus..... 161
mandate..... 155
refugees in..... 146
Szent-Gotthard incident..... 200

Tariff nomenclature.....57–58
Tariffs, Custom:
administrative protectionism.... 51
effect of on international trade.. 50
hides and bones..... 52
kinds of..... 50
methods of establishment..... 50
reduction of.....50, 51
Tax evasion..... 70
Taxation, double.....69–70
Telegraphic Conference, Paris, 1925 89
Ter Meulen scheme..... 59
Titanic disaster..... 80
Torriente y Peraza, Cosme de la... 215
Traffic in Women and Children, see League of Nations, Women and Children, Traffic in.

PAGE

Transit, see League of Nations, Organization for Communications and Transit.
Transit of electric power, convention, 1923..... 90
Trans-Jordania, mandate.....153–154
Treaty Series.....41–42
Trianon, Treaty of:
Arts. 239, 304.....96, 213
Tuberculosis, see League of Nations, Health Organization.
Turkey:
Iraq boundary dispute..... 210
mandated territories..... 153
mixed commission on Greco-Turkish exchange of populations..... 32
nonmember of League of Nations 20
treaty of Sèvres, August 10, 1920 153

Unfair competition.....55–56
Union of International Associations 112
Union of Socialist Soviet Republics, see Soviet Union.
United States:
correspondence with the League of Nations.....19–20
League of Nations —
payments to Secretariat..... 39
loan to Greek Government..... 66
member of Brussels International Financial Conference, 1920.... 44
member of naval armament conference..... 191
member of Office international d'Hygiène publique..... 98
nonmember of League of Nations..... 20
resolution of March 2, 1923, on opium..... 134
Universal Postal Union..... 35
Universal Sanitary Convention, Rome, 1907..... 98
University Exchanges in Europe.... 119
University relations:
coordination of studies, meeting of experts, 1928..... 119
exchange of professors and students..... 119
International University Information Office..... 117
national university offices..... 118
scholarships..... 119
students' organizations, list of... 119
University relations, see League of Nations, Intellectual Cooperation, Committee on.
Upper Silesia:
German minority schools in..... 169

PAGE

Upper Silesia — Continued.
German-Polish convention on administration of..... 211
Uruguay:
budget unit of League of Nations 36
member of League of Nations... 15

Venezuela:
budget unit of League of Nations 36
member of League of Nations... 15
neutral in World War..... 1
Versailles, Treaty of:
armament forces of Germany regulated by..... 18
Art. 119 with regard to mandates..... 152
League of Nations formed as result of ratifications of..... 13
obligations of Danzig under..... 65
Vessel measurement.....85–86
Veterinary questions, subcommittee of experts on.....52–53
Vilna, dispute over..... 208
Visas, passport..... 78

War:
Briand-Kellogg pact for renunciation of..... 192

PAGE

War — Continued.
draft model of treaty for prevention of..... 204
Western Samoa, mandate.....156, 161
Westerplatte munitions depot..... 176
Wilson, Woodrow..... 1
Wireless station for League of Nations..... 89
Women and Children, Traffic in:
conferences on.....136–137
see also League of Nations.
Women's International League for Peace and Freedom..... 141
World Economic Conference, see International Economic Conference.
World Student Christian Federation..... 119
World Union of Jewish Students... 119
World War, 1914–18:
armistice, conclusion of..... 1
League of Nations an objective of 1
neutral states in..... 1
World's Young Women's Christian Association..... 141
Wright, Dr. C. T. Hagberg..... 118

Zahle, Herluf..... 215
Zeligowski, Genl.....207, 208

Index for

ORIGIN

AND

CONCLUSION

OF

THE PARIS PACT

The Renunciation of War as an Instrument of National Policy

By DENYS P. MYERS

VOL. XII NO. 2

Note—Appendix IV was published in Library Edition only, and did not appear in pamphlet form.

INDEX

PAGE

Afghanistan:
  Pact of Paris:
    adherence and British note... 60
    note of adhesion..... 160
    party to..... 77
Aggression, definition of:
  American attitude..... 42
  Capper resolution..... 35
  draft treaty of mutual assistance 12
  French attitude..... 41
  Geneva protocol..... 16
  League of Nations..... 11
  Locarno treaty..... 43
Albania:
  pacific settlement with United States..... 94
  party to Pact of Paris..... 77
Alfaro, Ricardo..... 95
American Committee for Outlawry of War..... 32
American League to Enforce Peace 22
American Legion..... 34
American Society of International Law.....46, 124, 135
Arbitration:
  Bryan treaties..... 2
  committee on arbitration and security —
    draft conventions..... 27
    meetings..... 26
  compulsory..... 90
  contract debts..... 2
  French-American treaty for, *see* Treaties.
  General Act for pacific settlement, *see* Treaties.
  Hague convention, 1907..... 2
  Pan American Conference on..90, 95, 162
  permanent court of.....84, 86
  reparation settlement..... 13
  United States —
    bilateral treaty program.....92–93
    form of bilateral treaty.....179–180
    pacific settlement engagements.....94–100
  see also Treaties.
Arbitration and the United States by D. P. Myers..... 86
Argentina:
  failure to adhere to Paris Pact..59–60
  pacific settlement with United States..... 94

PAGE

Australia:
  pacific settlement with United States..... 94
  Pact of Paris —
    cooperation..... 49
    note of acceptance..... 54
    party to..... 77
    text of notes —
      June 2, 1928..... 132
      July 18, 1928..... 149
Austria:
  pacific settlement with United States..... 94
  party to Pact of Paris..... 77

Belgium:
  accession to General Act for pacific settlement..... 29
  Locarno agreements.....18–20
  pacific settlement with United States..... 94
  Pact of Paris —
    note of acceptance..... 54
    party to..... 77
    text of note, July 17, 1928..145–146
Bingham, Hiram..... 67
Blaine, John J.....67, 70
Blockade..... 8–9
Bolivia:
  pacific settlement with United States..... 44
Borah, William E.:
  Pact of Paris —
    consultation on French note.. 36
    Monroe doctrine..... 89
    report of foreign relations committee, text of.....68–70
    Senate debate.....66–67, 71
  resolution on outlawry of war...32–33
  pacific settlement with United States..... 94
Brazil:
  failure to adhere to Pact of Paris 59
Briand, Aristide:
  Pact of Paris —
    address at signing of..... 57
    early negotiations.....38–39
    first proposal.....34, 35
  see also Pact of Paris.
Briand-Kellogg Pact, *see* Pact of Paris.
British Empire, *see* Great Britain.

PAGE

Bryan, William J.:
treaties of conciliation..... 2, 3
Bulgaria:
pacific settlement with United States..... 94
party to Pact of Paris..... 77

Canada:
pacific settlement with United States..... 94
Pact of Paris —
cooperation..... 49
note of acceptance..... 54
party to..... 77
text of notes —
May 30, 1928..... 129
July 16, 1928..... 145
Capper resolution..... 35
Central America:
conciliation treaty with United States, 1923..... 31
Chamberlain, Sir Austen..... 17
Chile:
pacific settlement with United States..... 94
Pact of Paris —
adherence..... 59
party to..... 77
China:
pacific settlement with United States..... 94
party to Pact of Paris..... 77
Clark, J. Reuben..... 89
Claudel, Paul.....36, 46
Cleveland, Grover..... 69
Colombia:
pacific settlement with United States.....94, 95
party to Pact of Paris..... 77
Coolidge, Calvin.....63–64
Conciliation:
Bryan treaties of..... 2–3
Central American convention on 82
Conference on Arbitration and.. 82
French-American treaty —
provisions for conciliation commission.....84–85, 86
League of Nations recommendation for conciliation commissions.....22–23
pacific settlement engagements of United States.....94–100
Pan American Conference, Sixth 90, 95, 110
Pan American treaty, May 3, 1923..... 82
scope of.....92–93
text of United States treaties of.....181–182

PAGE

Costa Rica:
pacific settlement with United States..... 95
party to Pact of Paris..... 77
Court of International Justice, *see* Permanent Court of International Justice.
Cuba:
pacific settlement with United States..... 95
Pact of Paris —
adherence to..... 61
party to..... 78
text of notes, Aug. 31, and Oct. 4, 1928.....161–163
Czechoslovakia:
Locarno agreements..... 19
pacific settlement with United States..... 95
Pact of Paris —
cooperation..... 50
note of acceptance..... 54
party to..... 78

Danzig, Free City of:
Pact of Paris —
adherence..... 76
party to..... 78
Dawes Plan..... 13
Debts, contract..... 2
Denmark:
pacific settlement with United States..... 95
party to Pact of Paris..... 78
Disarmament:
Preparatory Commission for Disarmament Conference.....7, 25
Soviet Union note regarding...168–172
Dominican Republic:
pacific settlement with United States..... 95
party to Pact of Paris..... 78

Ecuador:
party to Pact of Paris..... 78
Egypt:
pacific settlement with United States..... 96
Pact of Paris —
adherence and British note... 60
party to..... 78
text of note, Sept. 3, 1928...163–164
Estonia:
pacific settlement with United States..... 96
Moscow protocol —
signatory of..... 74
Soviet proposal..... 71
party to Pact of Paris..... 78

PAGE

Ethiopia:
pacific settlement with United States..... 96
Pact of Paris —
party to..... 78
procedure for adherence..... 76

Fifth International Conference of American States..... 88
Finland:
pacific settlement with United States..... 96
Moscow protocol —
signatory of..... 74
Soviet proposal.....71, 72
party to Pact of Paris..... 78
France:
French-American arbitration treaty.....83–85
Locarno agreements.....18–20
pacific settlement with United States..... 96
Pact of Paris —
draft of bilateral treaty, June, 1927..... 35
draft of multilateral treaty, April, 1928.....119–120
note of acceptance..... 55
party to..... 78
procedure of ratification..... 75
proposal as to..... 34
text of notes —
Jan. 5, 1928..... 103
Jan. 21, 1928..... 107
Mar. 30, 1928..... 111
see also Pact of Paris *and* Treaties.

General Act for pacific settlement, *see* Treaties.
Geneva protocol, *see* Treaties.
Germany:
Locarno treaties.....18–20
pacific settlement with United States..... 96
Pact of Paris —
cooperation..... 48
note of acceptance..... 55
party to..... 78
text of notes —
Apr. 27, 1928.....121–122
July 11, 1928.....142–143
proposal for prevention of war... 11
Glass, Carter..... 71
Goff, Guy D..... 70
Great Britain:
Geneva protocol —
criticism of.....17–18
Locarno agreements.....18–19
pacific settlement with United States.....94, 95

PAGE

Great Britain — Continued.
Pact of Paris —
cooperation..... 48
note of acceptance..... 55
party to..... 78
procedure of ratification..... 75
text of notes —
May 19, 1928.....124–127
July 15, 1928.....147–148
Greece:
pacific settlement with United States..... 96
party to Pact of Paris..... 78
Guatemala:
pacific settlement with United States..... 96
party to Pact of Paris..... 78

Hague Peace Conference:
1st, 1899..... 87
2nd, 1907 —
contract debts, arbitration of.. 2
permanent court of arbitration.....84, 85
ratifications to..... 2
Haiti:
pacific settlement with United States..... 96
party to Pact of Paris..... 78
Hejaz and Nejd, Sultanate of..... 59
Herriot, Edouard..... 13
Honduras:
pacific settlement with United States..... 96
party to Pact of Paris..... 78
Hughes, Charles Evans..... 87
Hungary:
pacific settlement with United States..... 96
Pact of Paris —
adherence..... 62
party to..... 78
text of note, Oct. 6, 1928..... 164
Hymans, Paul..... 28

Iceland:
party to Pact of Paris..... 78
India:
pacific settlement with United States..... 96
Pact of Paris —
cooperation..... 49
note of acceptance..... 55
party to..... 78
text of notes —
June 11, 1928..... 132
July 18, 1928..... 149
International Blockade Commission..... 4

PAGE

International Conference of American States:
Fifth, 1923 88
Sixth, 1924 110
International Law, American Society of 46
Irish Free State:
pacific settlement with United States 96
Pact of Paris —
cooperation 49
note of acceptance 56
party to 79
text of notes —
May 30, 1928 130
July 14, 1928 144
Italy:
Locarno agreements 18–19
pacific settlement with United States 96
Pact of Paris —
cooperation 48
note of acceptance 56
party to 79
text of notes —
May 4, 1928 122
July 15, 1928 145

Japan:
pacific settlement with United States 96
Pact of Paris —
cooperation 48
note of acceptance 56
party to 79
procedure of ratification 75–76
text of notes —
May 26, 1928 123
July 20, 1928 153
Judicial settlement:
General Act for pacific settlement, text 185–186
see also Treaties.

Kellogg, Frank B.:
Pact of Paris —
address 46–47
invitations to British Commonwealth of Nations 49–50
multilateral negotiations 40–41
see also Pact of Paris.
Kellogg Pact, *see* Pact of Paris.
Knox, Philander C. 87

Latvia:
Moscow protocol —
signatory of 74
Soviet proposal 72
pacific settlement with United States 97
party to Pact of Paris 79

PAGE

League of Nations:
aggression, definition of 11
arbitration and security, committee on —
draft conventions 27
meetings 26
memorandum on Art. 16 9
Assembly —
arbitration recommendation of Eighth 25–26
Covenant, resolutions on Art. 16 5
Geneva protocol accepted by Fifth 16
resolution of Seventh regarding Locarno 21
resolution of Ninth on Art. 11 10
blockade 8–9
Covenant —
Art. 8 12
Art. 11 ..... 10, 15
Art. 12 ..... 3, 4, 14
Art. 15 14–15
Art. 16 4–9
amendments 6–7
proposed amendment for conciliation commission 22
French-American arbitration treaty 84, 89
General Act for pacific settlement —
accession of members 190–191
bilateral and collective treaties, texts 191–196
cooperation of conciliation commission 184
German proposal for treaty preventing war 11
International Blockade Commission 4
jurisdiction 88
mutual assistance, treaty of 12
objection of United States to 13
obligations of States Members 4
Pact of Paris —
Canadian view of relations of 49
French view 40
South African view 49
Preparatory Commission for Disarmament Conference 25, 169
sanctions 4–10
Liberia:
arbitration treaties with U. S. 31
pacific settlement with United States 97
Pact of Paris —
adherence 63
party to 79
Liechtenstein 59

PAGE

Lithuania:
Moscow protocol —
signatory..... 72
Soviet proposal..... 71
pacific settlement with United States..... 97
Pact of Paris —
adherence..... 62
text of note, Sept. 7, 1928.... 165
party to..... 79
Litvinov, Maxim.....71, 72
Locarno, *see* Treaties of Locarno.
Luxemburg:
pacific settlement with United States..... 97
party to Pact of Paris..... 79

MacDonald, J. Ramsay..... 13
Maritime blockade..... 8
Martens, Feodor..... 87
Mexico:
pacific settlement with United States..... 97
party to Pact of Paris..... 79
Mironescu, Georges..... 73
Monaco..... 59
Monroe, James..... 69
Monroe doctrine:
Argentina on..... 60
French-American arbitration treaty.....84, 88
report of Senate Foreign Relations committee..... 69
Moscow protocol, *see* Treaties.
Moses, George H..... 64
Multilateral treaty, *see* Pact of Paris.
Mutual assistance, treaty of.....12, 15

Netherlands:
pacific settlement with United States..... 97
party to Pact of Paris..... 79
New Zealand:
pacific settlement with United States..... 97
Pact of Paris —
cooperation..... 49
note of acceptance..... 56
party to..... 79
text of notes —
May 30, 1928..... 131
July 18, 1928..... 150
Nicaragua:
pacific settlement with United States..... 98
party to Pact of Paris..... 79
Norway:
pacific settlement with United States..... 98
party to Pact of Paris..... 79

PAGE

Olaya, Enrique..... 95
Olds, Robert E.....83, 85
Outlawry of war:
American Committee for..... 32
French proposal for..... 34
Senate resolution, text..... 32
see also Pact of Paris.

Pact of Paris:
adhesions.....1, 60–63
aggression, debate on —
American view.....42, 47
French view..... 42
American draft treaty, text..... 45
American multilateral proposal..37–38
comparison of French and American drafts.....46–47
correspondence —
Afghanistan note of adhesion.. 160
Australia —
note, June 2, 1928..... 132
note, July 18, 1928..... 149
Belgium note, July 17, 1928 145–146
Brazilian note, Aug. 28, 1928.. 161
Canada —
note, May 30, 1928.....129–130
note, July 16, 1928..... 145
Czechoslovakian note, July 20, 1928.....151–153
Cuba —
note, Aug. 31, 1928.....161–163
note, Oct. 4, 1928.....161–163
Egyptian note, Sept. 3, 1928 163–164
France —
draft of Pact, June 20, 1927.....101–102
note accepting multilateral proposal.....103–104
note, Jan. 21, 1928.....107–109
note, Mar. 30, 1928.....111–115
note, Apr. 20, 1928.....119–120
note, July 14, 1928.....143–144
Germany —
note, Apr. 27, 1928.....121–122
note, July 11, 1928.....142–143
Great Britain —
note, May 19, 1928.....124–127
note, July 15, 1928.....147–148
Hungarian note, Oct. 6, 1928.....164–165
India —
note, June 11, 1928.....132–133
note, July 18, 1928.....149–150
Irish Free State —
note, May 30, 1928.....130–131
note, July 14, 1928.....144–145
Italy —
note, May 4, 1928.....122–123
note, July 15, 1928..... 145

PAGE

Pact of Paris — Continued.
Japan —
note, May 26, 1928.....123–124
note, July 20, 1928.....153–154
Lithuanian note, Sept. 7, 1928.....165–166
New Zealand —
note, May 30, 1928..... 131
note, July 18, 1928..... 150
Persian note, Oct. 3, 1928.... 166
Polish note, July 8, 1928....146–147
Rumanian note, Sept. 4, 1928.....166–167
South Africa —
note, June 15, 1928.....133–134
note, July 18, 1928.....150–151
Soviet Union —
note, Aug. 31, 1928.....167–172
note, Sept. 6, 1928..... 174
Swiss note, Aug. 30, 1928...172–173
United States —
note suggesting multilateral treaty, Dec. 28, 1927...102–103
note, Jan. 11, 1928.....105–107
note, Feb. 27, 1928.....109–111
American note delivered, Apr. 13, 1928.....116–118
first American draft, Apr. 13, 1928.....117–118
note, June 23, 1928.....135–142
second American draft of treaty, June 23, 1928...140–142
American invitation for adherence, Aug. 27, 1928..158–160
declaration of ratification, Jan. 17, 1929.....174–175
date of signing..... 2
deposit of ratifications, Aug. 27, 1928..... 175
French acceptance of multilateral form..... 40
French bilateral proposal.....34–36
French counter draft of treaty, text.....45–46
Kellogg note of interpretation...50–53
Kellogg speech on.....46–47
League of Nations —
American view of relation between Pact and.....43–44
duty of states members..... 43
French view of relation between Pact and.....40, 42
Locarno treaties —
American view of relation between Pact and..... 47
Moscow protocol, *see* Treaties.
notes of acceptance.....54–56
origin..... 2
provisions..... 1
ratifications and adhesions....174–175
signing of..... 37

PAGE

Pact of Paris — Continued.
Soviet criticism of.....170–172
status of.....77–80
text as signed at Paris, Aug. 27, 1928.....155–157
United States Senate —
discussion.....66–68
ratification..... 70
Reed resolution..... 67
report of Foreign Relations Committee.....68–70
reservations..... 65
submission of treaty to..... 63
war, right to resort to..... 51
Pan American Conference, Sixth:
arbitration treaty..... 90
conciliation convention..... 90
condemnation of war.....110, 112
Pan American Conference on Conciliation and Arbitration..... 95
Pan American treaties with United States.....31, 82
Panama:
pacific settlement with United States..... 98
party to Pact of Paris..... 79
Paraguay:
pacific settlement with United States..... 98
party to Pact of Paris..... 79
Peace:
Art. 11 of League Covenant for securing..... 10
development of arbitration and conciliation..... 22
French view of..... 39
United States view of..... 39
Permanent Court of Arbitration...84, 86
Permanent Court of International Justice:
General Act —
judicial settlement in bilateral conventions..... 192
submission of disputes.....185–190
influence..... 23
jurisdiction.....15, 24–25
optional clause..... 25
Pan American arbitration treaty 90
Poland-Lithuanian dispute..... 165
signatories..... 24
Persia:
pacific settlement with United States..... 98
Pact of Paris —
adherence and British note.... 61
note of adhesion, Oct. 3, 1928 166
party to..... 79
signatory of Moscow protocol... 74
Peru:
pacific settlement with United States..... 98

PAGE

Peru — Continued.
party to Pact of Paris..... 79
Poland:
Locarno agreements..... 19
Moscow protocol —
negotiations..... 72
signatory..... 74
Soviet proposal..... 71
pacific settlement with United States..... 98
note, July 8, 1928.....146–147
Pact of Paris —
note of acceptance..... 56
party to..... 79
Portugal:
pacific settlement with United States..... 98
party to Pact of Paris..... 79
Preparatory Commission for Disarmament Conference..... 169
Protocol for Pacific Settlement of International Disputes, *see* Geneva protocol.

Reed, James A.:
Pact of Paris —
reservations proposal..... 64
Senate resolution..... 67
Renunciation of war:
Art. 11 of League Covenant on.. 10
as instrument of national policy 1
see also Pact of Paris *and* Treaties.
Rhine, The:
demilitarization of..... 18
Locarno agreements.....18–20
Root, Elihu..... 69
Rumania:
Moscow protocol —
signatory..... 74
Soviet proposal..... 73
mutual assistance and non-aggression treaties..... 31
pacific settlement with United States..... 98
Pact of Paris —
adherence..... 60
party to..... 79
Russia, *see* Soviet Union.

Salvador:
pacific settlement with United States..... 98
party to Pact of Paris..... 79
Sanctions..... 4–10
Scandinavia:
proposal for conciliation commission under League of Nations..... 22
Security, French desire for..... 39

PAGE

Serb-Croat-Slovene State:
pacific settlement with United States..... 99
party to Pact of Paris..... 79
Siam:
pacific settlement with United States..... 99
party to Pact of Paris..... 79
Sixth International Conference of American States.....110, 162
South Africa, Union of:
pacific settlement with United States..... 99
Pact of Paris —
cooperation..... 49
text of notes —
June 15, 1928.....133–134
July 18, 1928.....150–151
note of acceptance..... 56
party to..... 80
Soviet Union:
Moscow protocol —
negotiations.....71–74
signatories..... 74
text of.....177–178
pacific settlement with United States..... 95
Pact of Paris —
adherence.....62–63
party to..... 80
procedure of ratification..... 75
text of notes —
Aug. 31, 1928.....167–172
Sept. 6, 1928..... 174
Spain:
pacific settlement with United States..... 99
party to Pact of Paris..... 80
Stresemann, Dr. Gustav..... 18
Sweden:
Arbitration treaties with U. S.... 31
General Act..... 29
pacific settlement with United States..... 99
party to Pact of Paris..... 80
Switzerland:
pacific settlement with United States..... 99
Pact of Paris —
party to..... 80
procedure of adherence..... 76
text of note, Aug. 30, 1928..172–173

Taft, William Howard..... 86
Treaties:
Bryan treaties —
appointment of commissioners 90–91
arbitration with France.....82, 86
commissions incomplete..... 31
conciliation.....2, 3
development of..... 93

PAGE

Treaties — Continued.
French-American arbitration treaty —
appraisal of....86–90
international conciliation commission....84, 86
jurisdiction....84, 87–88
League of Nations....84, 88
Monroe doctrine....84, 88–89
permanent court of arbitration....84, 86
term of....89–90
text....83–85
third parties....84, 88
unarbitral disputes.... 84
General Act for pacific settlement —
entrance into force.... 28
members of.... 29
provisions....27–28
reservations.... 28
text....182–191
Geneva protocol:
British criticism of sanctions..17–18
definition of aggression.... 16
effect of.... 21
failure of....16–18
purpose of....14–15
Locarno, *see* Treaties of Locarno.
model treaties.... 27
Moscow protocol —
negotiations....72–73
signatories.... 74
Soviet proposal.... 71
text....177–178
Santiago, multilateral treaty of.. 95
Suvalki.... 165
Taft treaties.... 86
Treaties of Locarno —
definition of aggressor.... 43
Kellogg speech on relation of Pact to.... 47
model treaties similar to....27, 31
provisions....18–20
relation of Pact to —
British note.... 147
Czechoslovakian note.... 152
French notes....108, 143
Kellogg notes....110, 136
resolution of 7th Assembly regarding.... 21
significance.... 19
Treaty of Versailles.... 6
United States:
Arbitration with Liberia.... 31
Central American conciliation 31
pacific settlement of —
engagements....94–100
system.... 82
Pan American conciliation.... 31
see also Pact of Paris.

PAGE

Turkey:
pacific settlement with United States.... 100
party to Pact of Paris.... 80
signatory of Moscow protocol... 74

United States:
arbitration treaty with France...83–85
cooperation with League.... 31
objection to draft treaty of mutual assistance.... 12
outlawry of war, Senate resolution on....32–33
pacific settlement —
bilateral arbitration treaty..179–180
bilateral conciliation treaty.180–181
engagements....94–100
treaties.... 82
Pact of Paris —
aggression, definition of.... 42
interpretative note of June 23 50–53
invitation to other states to adhere to....158–160
Kellogg notes —
Dec. 28, 1927.... 102
Jan. 11, 1928.... 105
Feb. 27, 1928.... 109
Kellogg speech on....46–47
multilateral proposal....37–41
party to.... 80
proposals to "Principal Powers", April 13, 1928.... 116
ratification....75, 174–175
reception of French proposal..35–36
relation of League to....43–45
Senate action....63–71
Pan American Conference, Sixth 90
Pan American treaties....31, 82
Santiago multilateral treaty.... 95
Versailles, Senate controversy on treaty of.... 6
Uruguay:
pacific settlement with United States.... 100
party to Pact of Paris.... 80

Varela, J.... 95
Venezuela:
pacific settlement with United States.... 100
party to Pact of Paris.... 80

War:
Hague convention, 1907, limiting resort to.... 2
instrument of national policy.... 1
provisions of League Covenant for renunciation of.... 3
World Court, *see* Permanent Court of International Justice.

Index for

THE PACIFIC AREA

AN INTERNATIONAL SURVEY

By GEORGE H. BLAKESLEE

Professor of History and International Relations at Clark University

VOL. XII NO. 3

INDEX

PAGE

Aglen, Sir Francis:
dismissed by Chinese Government..... 18
Albania:
Gentlemen's Agreement with... 128
Aleutian Islands..... 131
Amami-Oshima..... 131
Anglo-Japanese Alliance..... 133
Antung:
Antung-Mukden railway lease extended..... 191
Australia:
immigration act..... 127
"white Australia policy"..... 128
Austria:
nationals under jurisdiction of Chinese courts..... 27
Autonomy, Tariff, *see* Tariff autonomy.

Belgium:
termination of Sino-Belgian treaty..... 35
treaties with China —
extraterritoriality..... 177
tariff autonomy..... 11
Bonin Islands..... 131
Borodin, M..... 83
Boxer protocol..... 57
Bryan treaties..... 136

California:
resolution on immigration by state Senate..... 124
Canada:
immigration act..... 127
Caroline Islands:
nonfortification of..... 132
Chamberlain, Sir Austen:
statement in House of Commons, Feb. 20, 1929..... 54
Chang, Hsueh-liang..... 118
Chang, Tso-lin:
agreement with Soviet Union, Sept. 20, 1924..... 94
declaration of May 25, 1928, by.. 194
memorandum of Japanese Government to..... 192
Chen, Eugene..... 72

PAGE

Chen-O'Malley agreement..... 48
Chiang, Kai-Shek.....64, 69
China:
foreign troops in..... 57
Japanese capital invested in..... 74
treaty granting tariff autonomy. 11
unequal treaties..... 4
see also National Government.
Chinese Eastern Railway:
agreement between China and Soviet Union, May 31, 1924....93, 203
auditors..... 204
capital of..... 91
charter of..... 91
construction of..... 91
directors..... 204
estimates and budgets of..... 205
Inter-Allied committee..... 93
management of.....94, 205
Mukden agreement, Sept. 20, 1924..... 94
original contract of Sept. 8, 1896, for construction and operation of..... 199
Peking agreement, May 31, 1924 94
report of Washington Conference sub-committee on..... 92
supervision by Inter-Allied committee..... 93
Communist Party..... 82
Concessions:
definition of..... 45
foreigners' objections to restoration of..... 53
list of..... 44
negotiation for restoration of.. 47
number of..... 52
origin of..... 45
restoration of Hankow and Kiukiang..... 48
Consortium, Four Power..... 60
Court of Arbitration, Permanent... 136
Court of International Justice, the Permanent:
Belgian appeal to..... 35
decision on treaty termination.. 36
signatories of protocol of..... 135
Customs Service:
administration of..... 19
origin of..... 18
system of..... 18

PAGE

Czechoslovakia:
nationals subject to jurisdiction of Chinese courts..... 27

Dairen, leased territory of..... 102
Dalny:
leased to Japan..... 191
Denmark:
treaty with China granting tariff autonomy..... 11

Eismont, M..... 209
Embargo:
cancellation of agreement of 1919 65
Emshanov, M..... 209
Estonia:
nationals subject to jurisdiction of Chinese courts..... 27
Extraterritoriality:
declaration by Chinese government on treatment of foreigners after abolition of..... 29
defects of system..... 21
joint declaration by Italian and Chinese governments..... 176
new treaties providing for abolition of..... 28
note of April 27, 1929, on abolition of.....33, 177
origin of..... 20
recommendations of the Commission on..... 171
reply, Aug. 10, 1929, of United States to Chinese note on abolition of..... 179
report of the Commission on....23–25
treaty of Wanghia, 1844..... 4
treaty with Belgium..... 177

Feng, Yu-hsiang..... 83
Finance:
foreign control of..... 59
Formosa islands..... 131
Four Power Consortium..... 60
Four Power Pact..... 132
France:
interest in Manchurian railways 90
tariff treaty with China.....11, 161

Gentlemen's Agreements..... 127
Germany:
nationals under jurisdiction of Chinese courts..... 27
Gostorg..... 209
Goto, Viscount..... 122
Great Britain:
Anglo-Japanese Alliance..... 133
boycott against..... 71
interest in China..... 71
note of Dec. 18, 1926, on treaty revision..... 9

PAGE

Great Britain — Continued.
note of Aug. 9, 1928, accepting settlement of Nanking incident 157
note to Hankow Government... 55
proposals of conciliation..... 73
treaty of Nanking, 1842..... 4
Greece:
Gentlemen's Agreement..... 128
Guam islands..... 131

Hanihara, M..... 105
Hankow:
incident of April 3, 1927..... 78
"Special Administrative District"..... 53
incorporation into Chinese municipality..... 54
Harbin:
administration of..... 54
raid on Russian consulate, July 10, 1929..... 209
Hart, Sir Robert..... 18
Hay, John..... 66
Hayashi, Consul-General..... 17
Hong Kong:
ceded to Great Britain..... 57
nonfortification of..... 131
Hughes, Charles Evans..... 61
Hungary:
nationals under jurisdiction of Chinese courts..... 27
Hwang Fu:
note of April 2, 1928..... 148

Immigration:
American act of 1924..... 123
Australian act..... 127
California state Senate resolution on..... 124
Canadian act..... 127
exclusion..... 125
Gentlemen's Agreements..... 127
Italian..... 128
New Zealand act..... 127
Institute of Politics..... 67
Inter-Allied committee over Chinese Eastern Railway..... 93
International Settlement, *see* Shanghai.
Italy:
commercial treaty with China, Nov. 27, 1928..... 167
immigration to Australia..... 128
treaty with China granting tariff autonomy..... 11
Ivanov, Mr..... 95

Japan:
agreement with China, Dec. 22, 1905..... 108

PAGE

Japan — Continued.
agreement with Soviet Union, Jan. 20, 1925 120
Anglo-Japanese Alliance 133
Cabinet —
manifesto of July 9, 1929 186
capital investment in China 74
concessions in Saghalien granted to 121
mandated islands 132
memorandum of May 18, 1928 116, 192
note of April 26, 1929, refusing Chinese interpretation of Art. 26 of commercial treaty 152
note of May 2, 1929, accepting settlement of Nanking incident 158
objection to tariff autonomy 13
special tariff treaty with China demanded by 13
trade with China 74
treaty of peace with Russia, Sept. 5, 1905 ..... 100, 190
treaty with United States 132
Twenty-One Demands 74
wars 74

Karakhan, Ambassador 81, 214
Kellogg, Frank B.:
letter to Senate concerning tariff treaty with China 11
note proposing neutralization of the Shai International Settlement 55
statement on American policy in China 9
treaties 136
Koo, Wellington V. K. 194
Kowloon:
ceded to Great Britain 57
Kuang-chou Wan, *see* Leaseholds.
Kuhara, F. 122
Kuomintang:
alliance with Soviet Union 82
Central Executive Committee of — manifesto of June 18, 1929 .. 144
Third National Congress of — resolution on foreign relations 141
Kuriles Islands 131

Lamont, Thomas W. 114
Lampson, Sir Miles W.:
note of Aug. 9, 1928 149
Latvia:
nationals subject to jurisdiction of Chinese courts 27
League of Nations 135
Leaseholds:
contemplated return of 56
retention of Liaotung insisted by Japan 57

PAGE

Leaseholds — Continued.
restoration of Kowloon not favored by British Government 57
Legation Quarter:
request for change of status 51
Legislative Yuan:
new law code drafted by 25
Liaotung Peninsula, leasehold 57, 188, 190
Likin:
abolition of 15
origin of 6
Li-Lobanov treaty 90
Limitation of naval armament 131
Lithuania:
nationals subject to jurisdiction of Chinese courts 27
Liu Tsu-han 157
Loans:
J. P. Morgan loan 113
Chinese protest 114
Nishihara 79
reorganization loan, 1913 60
Loochoos Islands 131
Lu, Chung-huang 209

MacDonald, Ramsay 137
MacMurray, John Van Antwerp 10, 149
Malta:
Gentlemen's Agreement with 128
Manchuria:
agreement between China and Japan, Dec. 22, 1905 108
Changchun-Kirin Railway 113
construction of Chinese Eastern Railway 91
extension of terms of lease of railways in 190–192
financial interest of France in 90
geography and population 88
Japanese possessions in 191
lease of Liaotung Peninsula 188
raid on Soviet consulate 96–97
railways in 89
South Manchurian Railway Company 103
statement by Baron Tanaka 104
statement by Dr. C. C. Wu 106
treaty of Dec. 22, 1905, between China and Japan confirming the latter's rights in 190
Marianna Islands:
nonfortification of 132
Maritime Customs Service, *see* Customs Service.
Marshall Islands:
nonfortification of 132
Matsuoka, Mr. 112
Missionaries:
privileges of 59

PAGE

Mixed Court:
abolition of..... 31
history of..... 26
protest by foreign powers..... 32
rendition of..... 26
Mongolia, dispute over..... 86
Monroe Doctrine..... 137
Morgan, J. P..... 113
Mukden agreement.....94, 206
Mukden-Antung railway lease..... 191

Nanking:
incident of.....63, 155
Nationalist Government at..... 61
treaty of 1842..... 4
Naphtha Syndicate..... 209
Nasu, Professor..... 126
National Government:
declaration of June 16, 1928.... 139
declaration of July 8, 1928..... 140
memorandum of Aug. 14, 1928, to Japan, denouncing validity of commercial treaty..... 150
note of April 2, 1928, to United States Minister.....148, 155
note of Aug. 9, 1928, to British Minister..... 155
note of April 27, 1929, to Japanese Government on negotiation of new treaty..... 154
note of April 27, 1929, to United States Government on abolition of extra territoriality.... 177
note of May 2, 1929, to Japanese Minister..... 155
note to the Powers concerning tariff autonomy..... 12
recognition of..... 62
tariff treaty with United States.. 10
treaty with Serb-Croat-Slovene State..... 27
Naval armament, limitation of:
Washington Conference on..... 131
Navigation:
right of inland..... 59
Netherlands:
tariff treaty with China.....11, 163
New Zealand:
immigration act..... 127
Nine Power treaty..... 133
Nishihara loan..... 79
Norway:
treaty with China granting tariff autonomy..... 11

Open Door policy of United States 66
Oriental Conference:
statement of..... 183

Pacific Ocean:
nonfortification of islands of.... 131

PAGE

Pacific Ocean — Continued.
quadruple treaties on possessions in.....220, 221
Pact of Paris..... 134
Peking:
agreement of..... 94
conference, *see* Tariff, special conference, Oct., 1925.
treaty of, 1880..... 4
Permanent Court of Arbitration... 136
Pescadores Islands 131
Philippine Islands..... 131
Poland:
nationals subject to jurisdiction of Chinese courts..... 27
Port Arthur, leased territory of..102, 191
Porter Resolution..... 68
Portsmouth treaty, 1905..... 108
Portugal:
treaty with China, Dec. 19, 1928 11, 169
Post Office:
control and administration of... 60

Root treaties..... 136
Rumania:
nationals subject to jurisdiction of Chinese courts..... 27
Russia:
nationals subject to jurisdiction of Chinese courts..... 27
treaty of peace with Japan, Sept. 5, 1905..... 190
see also Soviet Union.
Russian Orthodox Mission:
return of properties of..... 197
Russo-Asiatic Bank:
chartered by Russia in 1895..... 90
control assumed by Chinese Government 92
removal of headquarters..... 100
right to construct railroad granted to..... 90
Russo-Chinese Bank, *see* Russo-Asiatic Bank.

Saghalien:
concessions to Japan..... 120
Saito, Hirosi..... 103
Salt Administration..... 59
Sawayanagi, Dr..... 125
Serb-Croat-Slovene State:
nationals under jurisdiction of Chinese courts..... 27
Shameen affair..... 72
Shanghai:
International Settlement of — government..... 49
incident of May 30, 1925..... 47
reorganization of government. 51

PAGE

Shanghai Provisional Court, *see* Mixed Court.
Shibusawa, Viscount..... 124
Shidehara, Baron:
  policy toward China..... 75
  speech of Jan. 16, 1927..... 10
Sino-American treaties..... 43
Sino-Belgian treaty..... 34
Sino-German agreement of 1921... 27
Sino-Japanese treaties..... 37
Sino-Soviet agreement of May 31, 1924..... 27
Siou, Tzin-ch'eng..... 188
Soong, T. V..... 10
Soviet Merchant Marine..... 209
Soviet Union:
  agents in China..... 72
  agreement with Chang Tso-lin, Sept. 20, 1924..... 94
  agreement with China on general principles of relationship, May 31, 1924.....27, 81, 195
  agreement with Japan, Jan. 20, 1925..... 120
  alliance with Kuomintang..... 82
  break with Chinese Nationalists. 85
  declaration of Sept. 27, 1920..... 81
  denouncement of previous treaties and engagements with China..... 195
  disposal of Russian portion of Boxer Indemnity fund..... 198
  joint declarations on settlement of claims of properties..... 197
  measures taken with regard to Chinese Eastern Railway dispute..... 215
  memorandum of July 13, 1929, on the Harbin raid..... 209
  memorandum of July 18, 1929... 215
  military supplies to Chinese Nationalists..... 83
  note of July 18, 1928..... 98
  raid on consulate of.....85, 96
  renunciation of rights and privileges..... 80
  treaties with Japan..... 100
Spain:
  treaty with China..... 11
Sun, Chuan-fang..... 52
Surtaxes:
  Washington Conference 8
Sweden:
  treaties with China.....11, 22, 28
Switzerland:
  treaty with China on extraterritoriality..... 28

Taft, President William Howard... 61
Taiping Rebellion..... 49

PAGE

Tanaka, Baron:
  "positive policy" of..... 75
  statement of May 17, 1928..... 192
  statement of July 7, 1927..... 183
  statement of policy to the Diet, Jan. 22, 1929..... 185
  statement on Manchuria..... 101
Tariff:
  autonomy —
    abolition of special preference on frontier of Indo-China.. 163
    annexes to treaty between China and Great Britain, Dec. 20, 1928.....165–167
    Chinese note on..... 12
    history..... 7
    Japanese objection to..... 13
    preliminary treaty between China and Italy, Nov. 27, 1928..... 167
    treaties granting..... 11
    treaty between United States and China, July 25, 1928... 160
    treaty with France..... 161
    treaty with Netherlands..... 163
    treaty with Portugal..... 169
  conventional..... 5
    evils of..... 6
  Japan demands special treaty... 13
  preferential rates —
    on Manchuria border..... 17
    termination of..... 16
  proclamation of new..... 14
  proposals for interim period..... 13
  rates of new..... 15
  special conference, Oct., 1925... 7–8
  treaty between United States and China..... 10
Third Internationale..... 85
Tientsin, Treaty of, 1858..... 4, 6
Treaties:
  Bryan..... 136
  Japanese protest as to termination of..... 38
  Kellogg..... 136
  naval armament limitation, Feb. 6, 1922..... 222
  negotiation of new..... 41
  Nine Power 133
  Peking, 1880..... 43
  Portsmouth treaty between Japan and Russia.....108, 190
  rebus sic stantibus 40
  renunciation of war 98, 223
  revision of.....33, 148
  right to terminate..... 34
  Root..... 136
  Sino-American..... 43
  Sino-Belgian..... 34
  Sino-Japanese..... 37

PAGE

Treaties — Continued.
Tientsin, 1858 6
Wanghia 4
Tsinan affair:
settlement of 77
story of 75
Turkey:
establishment of legation at Nanking 64
Twenty-One Demands 74

Uchida, Count:
statement in Japanese Diet 74
"Unequal Treaties":
abrogation of 140
interim regulations 141
origin of 4
United States:
commercial interest in China 67
cooperation against independent action toward China 69
educational interest in China 67
immigration act of 1924 123
note of April 2, 1928, accepting settlement of Nanking incident 156
policy of 66
reply of Aug. 10, 1929, to Chinese request for abolition of extra-territoriality 179
tariff treaty with China 10
treaty with Japan, 1922 132

Vladivostok 90

PAGE

Wang, Chengtin T.:
diplomatic note of April 27, 1929 30
Wang, Chung-hui 20, 26
Wanghia, treaty of 4
Warships in China 58
Washington Conference:
Art. XIX of treaty on limitation of naval armament 131
quadruple treaty relating to possessions in Pacific, Dec. 13, 1921 220
supplementary treaty, Feb. 6, 1922 221
report of sub-committee on Chinese Eastern Railway 92
surtaxes 8
treaty limiting naval armament, Feb. 6, 1922 222
Weihaiwei, leasehold of 56
Whampoa:
Sino-French treaty of 44
Williamstown Institute of Politics 67
Wilson, President Woodrow 61
Wu, Dr. C. C.:
statement on Manchuria 106

Yamamoto, Mr. 114
Yang, Yu-ting 115
Yoshizawa, Minister:
statement on tariff 13

Zumoto, M. 105

Index for

THE UNITED STATES

AND THE

WORLD COURT

By PHILIP C. JESSUP

Assistant Professor of International Law
Columbia University

VOL. XII NO. 4

INDEX

PAGE

Abyssinia, *see* Ethiopia.
Adatci, M.:
  view on American accession to World Court..... 136
Advisory opinions:
  Art. 73 of Rules of Court on.... 27
  Final Act regarding..... 36
  publication of..... 25
  reservation of United States on.. 24
  types of..... 29
Afghanistan:
  World Court open to..... 80
Agüero y Bethancourt, M. de..... 134
Albania:
  member of World Court..... 79
Anzilotti, Dionisio..... 71
Argentine Republic:
  World Court open to..... 80
Australia:
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12
Austria:
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12

Belgium:
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12
Bolivia:
  member of World Court..... 79
  signatory of Protocol for American accession to World Court. 12
Brazil:
  member of World Court..... 79
  nonmember of League of Nations 44
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12
Briand, Aristide:
  view on American accession to World Court..... 135
British Empire (less League members):
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12
Bryan, William Jennings..... 45

PAGE

Bulgaria:
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12

Canada:
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12
Chamberlain, Sir Austen:
  draft resolution submitted to Council of League of Nations, March, 1929..... 133
  statement on United States Senate reservations..... 3
  view on American accession to World Court..... 134
Chile:
  member of World Court..... 79
  signatory of Protocol for American accession to World Court. 12
China:
  member of World Court..... 79
  signatory of Optional Clause.... 82
  signatory of Protocol for American accession to World Court. 12
Colombia:
  member of World Court..... 79
  signatory of Protocol for American accession to World Court. 12
Committee of Jurists on Statute of Permanent Court of International Justice:
  appointment..... 5
  Draft Protocol drawn up by.... 7
  members of..... 7
  report of..... 104
  session..... 51
Conference of States Signatories of Protocol of Dec. 16, 1920:
  Final Act and Draft Protocol..3, 8, 14
  letter to Assembly of League of Nations..... 127
  preliminary draft of protocol adopted by, Sept. 23, 1926..130–132
  sessions.....10–11
  United States not a delegate to.. 3
Coolidge, Calvin, see President of United States.
Costa Rica:
  member of World Court..... 79
  signatory of Optional Clause.... 82

PAGE

Court of Arbitration, Permanent.. 45
Court of International Justice, the Permanent:
advisory opinions
Eastern Carelia..... 32
nationality decrees for Tunis and Morocco..... 30
rendering of..... 25
Statute provisions with regard to.....70, 101–103, 119–121
United States and..... 34
agents as representatives..... 99
applications to..... 118
chamber of summary procedure. 114
communications and transit, cases relating to.....91, 113
composition of.....61, 106
contributions of nonmembers of League..... 117
deliberations..... 100
deputy-judges, abolition of 61, 87, 109
dissenting opinions..... 73
Draft Protocol for American accession to..... 8
expenses..... 96
hearings.....99, 118
Hurst Draft and Root Plan compared..... 55
judges —
compensation of..... 95
duties of..... 87
election of.....86, 107
functions..... 108
national judges chosen to sit.. 93
privileges of..... 88
qualifications.....59, 106
resignation.....66, 107
salaries of.....94, 115
term of office..... 87
vacancies.....66, 107
jurisdiction of..... 96
labor cases, hearing of.....90, 112
language.....97, 118
League of Nations action with reference to..... 9
League of Nations as party in cases before..... 73
members —
dismissal of..... 88
election of..... 83
immunities and privileges..... 88
term of election..... 86
vacancy of..... 86
minutes..... 99
national judges.....68, 114
notices..... 99
open to states..... 96
organization of..... 83
powers of..... 97
president of..... 88
procedure 98

PAGE

Court of International Justice, the Permanent — Continued.
Protocol for American accession..... 76
Protocol of Amendments to Statute..... 76
text..... 121
Protocol of Signature, 1920 —
accession of the United States 128
reservations.....128–129
signatories of..... 79
text..... 81
see also Conference of States Signatories of Protocol of Dec. 16, 1920.
quorum.....89, 112
Registrar..... 88
reservations of United States, *see* United States.
Root Plan and Hurst Draft compared..... 55
rules of procedure..... 93
seat of..... 88
session.....63, 88, 110
signatories of Protocol of..... 79
size..... 65
special chambers.....73, 92
states signing Optional Clause... 82
states signing Protocol for American accession to..... 12
Statute —
advisory opinions..... 70
amendments, report by M. Scialoja..... 9
Arts. 4 and 10..... 16
Art. 32..... 10
Assembly resolution on amendment of..... 5
conference on revision of..... 122
Protocol of Amendments to... 124
signatories..... 125
question of revision..... 6
text with amendments.....83–103
United States reservations affecting..... 2
see also Statute, revision of.
summary procedure.....93, 114
vice-president..... 88
Cuba:
member of World Court..... 79
signatory of Protocol for American accession to World Court. 12
Czechoslovakia:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

Dandurand, Raoul:
view on American accession to World Court..... 135

PAGE

Danzig:
World Court open to..... 80
Denmark:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Dominican Republic:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Dorpat, treaty of..... 32
Draft Protocol drawn up by Committee of Jurists:
states accepting..... 12

Eastern Carelia:
opinion on status, requested of World Court..... 32
Ecuador:
World Court open to..... 80
Egypt:
World Court open to..... 80
Estonia:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Ethiopia:
member of World Court..... 79
signatory of Optional Clause.... 82
Eysinga, Jonkheer van.....11, 14

Final Act, *see* Conference of Signatories.
Finland:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
treaty of Dorpat..... 32
Foroughi, H. H. Mohammad Ali Khan:
view on American accession to World Court..... 136
France:
dispute over nationality decrees for Tunis and Morocco..... 30
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Fromageot, Henri.....7, 59, 69

Gaus, Friedrich 7, 51
Germany:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Gillett, Frederick H..... 4
Great Britain:
dispute over nationality decrees for Tunis and Morocco..... 30
see also British Empire.
Greece:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Guatemala:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

Hague Peace Conferences..... 45
Haiti:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Harding, Warren G., *see* President of the United States.
Honduras:
World Court open to..... 80
Huber, Hans Max..... 71
Hudson, Manley O..... 34
Hughes, Charles Evans..... 46
Hungary:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Hurst, Sir Cecil.....7, 9, 42, 51, 55, 69

Iceland:
World Court open to..... 80
India:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Irish Free State:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Italy:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Ito, Nobumi..... 7, 70

Japan:
member of World Court..... 79
signatory of Protocol for American accession to World Court. 12
Jurists, Committee, on Accession of United States to Court..... 140

PAGE

Jurists, Committee of:
report on amendment of Statute 104

Kellogg, Frank B.:
note to Signatory States of Protocol and replies received..... 2, 3

Latvia:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
League of Nations:
action with reference to World Court..... 9
Assembly —
letter from Conference of Signatory States..... 127
resolution on amendment of Statute of World Court 5, 59, 104, 122
Council —
meeting, March 18, 1926..... 3
resolution on amendment of Statute of World Court.... 10
resolutions on American accession to World Court...6, 133, 146
Covenant, Art. 5 of..... 34
First Committee, report..... 150
party in cases before World Court..... 73
Liberia:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Liechtenstein:
World Court open to..... 80
Lithuania:
member of World Court..... 79
signatory of Optional Clause.... 82
Luxemburg:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

Mexico:
World Court open to..... 80
Monaco:
World Court open to..... 80
Monaco, Prince of..... 45
Monroe Doctrine..... 33
Morocco, nationality decrees for... 30

Netherlands:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

PAGE

New Zealand:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Nicaragua:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Norway:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

Opium Conference, Second International, 1913..... 46
Optional Clause, signatories of.... 82
Osusky, Stefan..... 10

Panama:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Paraguay:
member of World Court..... 79
signatory of Protocol for American accession to World Court. 12
Pella, M..... 59
Permanent Court of International Justice, *see* Court of International Justice, the Permanent.
Persia:
member of World Court..... 79
Peru:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Pilotti, Massimo..... 7
Poland:
member of World Court..... 79
signatory of Protocol for American accession to World Court. 12
Politis, Nicolas..... 7, 69
Portugal:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
President of United States:
Coolidge —
negotiations on World Court.. 4
Harding —
in favor of American accession to World Court..... 1
Procopé, M.:
view on American accession to World Court..... 136

PAGE

Protocol for American accession, *see* Draft Protocol drawn up by Committee of Jurists.
Protocol of Signature, *see* Court of International Justice, the Permanent.
Protocol on revision of Statute, *see* Statute, revision of.

Quiñones de León, M.:
view on American accession to World Court..... 136

Raestad, Arnold..... 7, 42
Reservations of United States on accession to World Court, *see* United States.
Rolin, Henri..... 14
Root, Elihu:
Draft Protocol on American accession to World Court..... 7, 37
member of committee of experts for revision of Statute..... 5
plan contrasted with Hurst Draft 55
suggested redraft of Art. 4 of Protocol of 1926..... 138
Rumania:
member of World Court..... 79
signatory of Protocol for American accession to World Court. 12
Rundstein, Symon..... 74

Salvador:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
San Marino:
World Court open to..... 80
Scialoja, Vittorio..... 8, 9
Serb-Croat-Slovene State:
member of World Court..... 79
signatory of Protocol for American accession to World Court. 12
Siam:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
South Africa, Union of:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Soviet Russia:
treaty of Dorpat..... 32
World Court open to..... 80
Spain:
member of World Court..... 79

PAGE

Spain — Continued.
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Statute, revision of:
Articles, text.....83–103
conference, convocation of..... 123
League Assembly resolution on.. 59
procedure on..... 74
Protocol, text..... 124
signatories..... 125
report and resolution of League Council..... 122
report of Committee of Jurists.. 59
text.....104–121
United States and.....75, 127
see also Court of International Justice, the Permanent.
Stresemann, Dr. Gustav:
view on American accession to World Court..... 135
Sweden:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12
Switzerland:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

Titulesco, Nicolas:
view on American accession to World Court..... 135
Trammell, Park..... 4
Tunis, nationality decrees for..... 30
Turkey:
World Court open to..... 80

Union for the Protection of Industrial Property..... 46
United States:
aide mémoire of Aug. 14, 1929, to League of Nations..... 148
Protocol for Accession to World Court by..... 12
reservations with regard to adherence to World Court —
advisory opinions..... 24
amendment of Statute.....23, 127
Court expenses..... 18
equality with Members of League..... 16
League of Nations, relation to 14
text.....128–129
Versailles, treaty of..... 14
Senate —
Committee on Foreign Relations..... 4

PAGE

United States — Continued.
resolution on American accession to World Court.....1, 4, 128
World Court open to..... 80
Urrutia, Dr. Francisco José..... 73
Uruguay:
member of World Court..... 79
signatory of Optional Clause.... 82
signatory of Protocol for American accession to World Court. 12

Valdés-Mendeville, M.:
view on American accession to World Court..... 136
Venezuela:
member of World Court..... 79

PAGE

Venezuela — Continued.
signatory of Protocol for American accession to World Court. 12
Versailles, treaty of..... 14

Walsh, David I..... 34
Wilson, Hugh R..... 11
World Court, *see* Court of International Justice, the Permanent.

Zaleski, Auguste:
view on American accession to World Court..... 136
Zumeta, M.
view on American accession to World Court..... 135

Index for

THE REPARATION SETTLEMENT

By DENYS P. MYERS

VOL. XII NO. 5

INDEX

PAGE

Adatci, Miñeitcirð.....48, 202, 206
Addis, Sir Charles S.:
  Concurrent Memorandum, signatory of..... 243
  member of Committee of Experts, 1929.....19, 143, 177
Agent-General for Reparation Payments:
  abolition.....21, 53, 92, 195
  accounts.....63, 220
  creation..... 91
  principal duty.....91–92
  report on Dawes Plan..... 15
Agreement between Germany and the United States:
  amounts to be paid under.....244–245
  bond issues —
    exemption from taxation..... 247
    method of payment 246
    payments before maturity.... 247
  bonds as evidence of indebtedness.....244, 245, 246
  compliance with legal requirements in execution of..... 248
  counterparts of..... 248
  notes exchanged simultaneously with execution.....248–249
  notices respecting.....247–248
  postponement of payment..... 246
  prior rights of German External Loan of 1924..... 249
  reasons for..... 244
  schedule of payments by Germany on account of costs of United States army of occupation..... 245
  security for German obligations.....44, 246, 248–249
Agreement with Germany, Jan. 20, 1930.....192–202
Allix, Edgar..... 143
Alsace-Lorraine, liquidation of German property in..... 127
Annuities:
  adjustments between annuity years.....59–61
  adjustments for transitional period.....61–64
  amount.....56, 158–161
  Annuity Trust Account, *see* Bank for International Settlements.
  commercialization and mobilization —
    Bank for International Settlements.....107–109, 173–175, 228–230, 234–235

PAGE

Annuities — Continued.
    issuance of bonds.....229–230, 235
    proportionate participation by governments..... 229
    Special Trust Account..... 230
  composition of —
    budget of the Reich....162, 165–166
    charge on German industries.....164–165
    deliveries in kind.....169–171
    German Railway Co...162, 163–164
    sources..... 162
    transport tax..... 164
  Dawes Plan annuity.....50, 53
  deficiencies in payments.....60–61
  deliveries in kind under Peace treaty.....6, 7, 80
  distribution proposed by experts of creditor countries on Committee of Experts, 1929....179–181
  distribution under Dawes Plan..86, 87
  division of reparation and out-payments.....56–58
  establishment.....50–87
  features..... 53
  German assignment of tax proceeds as collateral..... 197
  German certificates of indebtedness.....107–108
  graduation.....55–56
  measures of safeguard.....167–169
  nonpostponable portion —
    allocation.....75–76
    detailed working of system....76–77
    guaranty.....74–75
    mobilization.....74–75
    recommendations of Committee of Experts, 1929.....166–167
    significance..... 76
  period of payment..... 51
  postponable portion —
    purpose..... 77
    recommendations of Committee of Experts, 1929..... 167
  present value.....53–54, 61
  progression in amount..... 166
  receipt of Bank for International Settlements for payments in respect of..... 234
  receipts of creditor countries.... 59
  recommendations of Committee of Experts, 1929.....158–171
  relation of out-payments to..... 55
  report of Bank for International Settlements on administration of..... 231

PAGE

Annuities — Continued.
schedule.....52–53, 159–160
less payments to U. S.....232–233
source.....67–73, 162–166
Trust Agreement respecting management.....197, 220–232
unconditional.....160, 187, 190
Annuity Trust Account, *see* Bank for International Settlements.
Aoki, Takashi.....144, 177
Arbitral Tribunal:
constitution..... 199
functions.....199–200, 219
procedure.....199–200, 219
reference of disputes to..199–200, 203, 218–219, 232, 240
successor to Tribunal of Interpretation.....199–200
Australia:
agreement with Germany, Jan. 20, 1930..... 192
Australian-German convention on liquidation of private property.....125, 195
receipts under Spa percentages.. 4
Austria:
joint liability.....117–119
quota of Austro-Hungarian debt. 118
reconstruction..... 117

Bachmann, G..... 206
Balfour note..... 130
Bank for German Industrial Debentures, *see* Bank for Industrial Obligations.
Bank for Industrial Obligations...69, 164
Bank for International Settlements:
accounts —
auditing of..... 216
statement of..... 216
administration of annuities, reports on..... 231
amendments to Statutes.....104, 203, 204–205, 216, 219
annual report..... 216
Annuity Trust Account —
allocations to creditor governments in.....223–224
calculation in Reichsmarks of sums paid into..... 222
charges against.....100, 231
commission of Bank charged to 231
national subdivisions..... 224
operation.....98–100
payments of German Government..... 99
payments to creditor governments..... 225
priority rights of German External Loan, 1924.....198, 223, 233–234

PAGE

Bank for International Settlements — Continued.
receipt of Bank in respect of payments into..... 234
transfer postponement respecting..... 99
transference of sums allocated to governments.....224–225
Arbitral Tribunal, relation to.... 199, 200, 218–219
board of directors —
appointments by.....214–215
composition.....100–101, 212–213
determination of Bank's operations.....100–101, 210
disposal of remainder of net profits on proposal of..... 217
functions. 101–102, 154, 214, 215, 219
proposals requiring extraordinary general meeting..... 216
capital —
amount.....95, 153, 204, 207
distribution.....95, 153, 207
guaranty.....95, 204, 207
increase in.....208, 216
subscribers.....95, 204
voting and representation rights.....95, 153, 209
charter.....94–95, 204–206
commercialization and mobilization of annuities.....107–109, 173–175, 228–230
convention respecting....196, 203–204
corporate existence, beginning of.....196, 204
distribution of profits.....102, 154
establishment.....94, 204
financial year..... 216
functions in respect of service of German debt coupons.....234–235
functions, general.....97–98, 152–153, 207, 209–211
functions prohibited.....98, 211
general manager..... 214
general meeting —
date..... 215
disposal of remainder of net profits..... 217
extraordinary general meetings 216
functions..... 215
representation..... 215
general reserve fund.....217–218
German deposit with —
amount.....225–226
regulation..... 226
guarantee fund in respect of unconditional annuities...187–188, 197
guaranteeing institutions.....95, 96
immunities.....197, 205–206
incorporation.....94, 196, 203–204

PAGE

Bank for International Settlements — Continued.
international financial cooperation through.....104–105
issuance of shares.....95–96, 207–209
legal reserve fund..... 217
liquidation of.....216, 218
management.....212–215
name..... 206
necessity for.....88, 196
objects.....95, 206, 211
operations.....96–97, 209–211
organization committee.....93–94
outline of functions by Committee of Experts, 1929.....88–89, 152–153
payments on account of delivery in kind, etc..... 225
postponement of annuities transfer —
declaration of German government respecting..... 196
procedure..77–80, 227–228, 235–237
purpose.....77, 155, 157
receipt for annuity payments during..... 234
president..... 214
profits —
application.....216–218
general reserve fund.....217–218
legal reserve fund..... 217
special fund..... 217
reasons for constitution.....151–153
reference of disputes with central banks to Arbitral Tribunal.103–104
relation to central banks.....96–97, 100–101, 153, 155, 204, 209–211
relation to Young (New) Plan... 95
report of Committee of Experts, 1929.....151–156
reserve funds.....98, 217–218
seat of.....94, 206
Special Advisory Committee.102, 167–169, 215, 226–227
special fund..... 217
Statutes.....206–238
structure and functions.....92–105
taxation of.....205–206
transference of functions of Small Special Committee to..... 195
Trust Agreement with creditor governments —
currencies accepted by Trustee.....221–222
date of coming into force..... 232
functions of Trustee.....220–221
schedule of amounts of annuities due creditor governments 221
undertakings by German government respecting.....196–197
use of credit by central banks... 155

PAGE

Belgian marks:
agreement respecting....125, 135–139
relation to New Plan.....135–136
Belgium:
agreement regarding deliveries in kind.....190–192
agreement with Germany, Jan. 20, 1930.....192–202
annuities deferment.....60–61
Arbitral Tribunal, relation to..199–200
Belgo-German conventions on liquidation of private property.....125, 195
Belgo-German marks agreement 125, 135–139
convention respecting Bank for International Settlements...203–204
debt funding agreement with United States.....131–132
financial agreement (annex I to Protocol of Aug. 31, 1929)..188, 189
German payments under marks agreement.....137, 139
governmental debt, agreement for settlement.....131–132, 239
out-payments for year ending Mar. 31, 1930..... 161
party to Concurrent Memorandum on out-payments.128, 133, 135
percentage of liberation debt payments..... 122
receipts —
under annuity payments..... 59, 179–181
under Czechoslovak liberation debt payments..... 123
under Dawes annuity..... 86
under deliveries in kind..... 184
under Spa percentages..... 4
relation of Belgian marks settlement to New Plan.....135–136
Trust Agreement with Bank for International Settlements...220–232
Beneš, Dr. Eduard..... 202
Bianchini, Giuseppe..... 144
Blackett, Sir Basil..... 143
Briand, Aristide:
conversation with Stresemann.. 16
signatory of —
agreement of Aug. 30, 1929... 30
joint note to Stresemann..... 34
British Empire:
annuities deferment.....60–61
receipts —
under annuity payments 59, 179–181
under Dawes annuity..... 86
under nonpostponable portion of annuities..... 76
under Spa percentages..... 4
British percentage adjustment.....63–64
British reparation demands....25–28, 64

PAGE

Bulgaria:
conspectus of reparation payments by..... 140
joint liability under Treaty of Neuilly.....116, 117
Burckhardt, Prof. W..... 206

Canada:
agreement with Germany, Jan. 20, 1930..... 192
Canadian-German convention on liquidation of private property.....125, 195
receipts —
under Spa percentages..... 4
Capital, flight of German..... 10
Central banks:
definition..... 219
relation to Bank for International Settlements.....100–101, 153, 155, 204, 209–211, 215
representation on Bank for International Settlements....100–101, 154, 212, 215
Chéron, Henri.....48, 202, 206, 240
Commercialization and mobilization:
assigned revenues for..... 108
bond issues.....106–107
French attitude.....106, 109–110
provisions for first mobilization 110–111
provisions of Treaty of Versailles..... 106
recommendations of Committee of Experts, 1929..106–107, 173–175
relation of Kreuger and Toll loan to..... 111
Committee of Experts, 1929:
abolition of charge on German industry..... 70
attitude.....145–146
Bank for International Settlements —
general observations.....155–156
organization.....153–154
reasons for constitution.....151–153
British opposition to report of...23, 24
commercialization and mobilization of annuities.....173–174
composition of annuities.....162–171
conclusions of report.....176–177
Concurrent Memorandum....241–243
constitution.....17, 18, 143
course of proceedings.....148–151
determination of annuities.....50–83, 158–171
determination of nonpostponable annuities.....73–74, 75, 166–167
determination of postponable annuities..... 167

PAGE

Committee of Experts, 1929—Continued.
distribution of annuities proposed by experts of creditor countries.....179–181
essentials of report..... 20
establishment of Bank for International Settlements recommended..... 20
governments represented.....18, 143
influence of form of annuity on amount.....157–158
liquidation of the past.....171–173
mandate.....2, 143
meetings..... 144
members.....143–144
New Plan contrasted with Dawes Plan.....174–176
non-acceptance of Belgian mark claim.....135–136
out-payments for year ending Mar. 31, 1930..... 161
proposals regarding pre-Dawes accounts.....114–116
provisions for dissolution of joint liability recommended.....116–118
report, and annexes.....143–188
signatories of report..... 177
statement of principles underlying settlement..... 151
study of Germany's economic condition.....146–148
Committee of Jurists..... 36
Committee of Verification and Control.....17, 22, 29
Committee on Adaptation of German Law concerning the German Railway Company..... 36
Committee on Adaptation of German Law on the Reichsbank.. 36
Committee on Adaptation of System of Controlled Revenues... 36
Committee on Ceded Properties, etc..... 36
Committee on Deliveries in Kind.. 36
Committee on Liquidation of the Past.....36, 118, 119
Committees appointed by president of Hague Conference..... 36
Concurrent Memorandum, *see* Intergovernmental Indebtedness.
Conference of Ambassadors..... 35
Convention respecting Bank for International Settlements..203–204
Conventions on liquidation of private property.....124–127
Curtius, Dr.....48, 202, 206, 240
Czechoslovakia:
agreement with Germany, Jan. 20, 1930..... 193

PAGE

Czechoslovakia — Continued.
conspectus of reparation payments by..... 140
liberation debt, distribution of 122, 123
quota of Austro-Hungarian debt. 118
value of state properties acquired 123

Dawes loan, *see* Germany, External Loan of 1924.
Dawes Plan:
acceptance..... 11
contrasted with New Plan....174–176
contributions of German budget.68–69
contributions of German industry 69
contributions of German Railway Co.....69, 71
deliveries in kind.....81, 82, 169–170
distribution of annuities.....65, 86, 87
First Committee of Experts..... 9–11
German External Loan of 1924..55, 71, 86, 87, 162–163, 193
German industrial debentures...69–70, 164–165
industrial charges law..... 164
initiation.....9, 10
operation.....14, 15
provisions.....12–14
report of Agent-General for Reparation Payments on..... 15
signatories..... 11
standard annuity under —
basis for final settlement..... 50
reduction of..... 53
substitution of New Plan..... 44
Transfer Committee..... 77
Debt certificate of German Government:
collateral guaranty for payments. 237
coupons attached to —
payment of mobilizable moneys represented by..... 234
payment of nonmobilizable moneys represented by..... 234
service of mobilizable portion.....234–235
values represented..... 234
fulfillment of obligations.....237–238
German engagement..... 232
Deliveries in kind:
agreement respecting.....190–192
Anglo-Italian agreement respecting.....84–85
attitude of governments..... 81
British attitude.....83–84
contracts and value.....81–82
distribution among creditor countries.....184–185
functions of Bank for International Settlements respecting.....230–231

PAGE

Deliveries in kind — Continued.
recommendations of Committee of Experts, 1929.....169–171
regulations governing.....81, 170, 197
rôle under Dawes Plan....82, 169–170
safeguarding under.....191–192
schedule of payments..... 170
schedule of quotas.....83, 183–185
temporary continuance.....80, 82
total..... 185
under Peace treaty.....6, 7, 80
Development of reparation problem..... 1–17
Dolcetta, Bruno..... 144
Dreyse, F..... 48

Eupen and Malmédy.....136–137

Fabri, H..... 143
Fernandes, Tomaz..... 202
Final settlement, agreement for... 17
Financial agreement (annex I to protocol of Aug. 31, 1929)..188–190
First Committee of Experts:
constitution..... 9
Dawes Plan, creation of.....10, 11
functions..... 9, 10
First National Bank of Chicago.... 204
First National Bank of New York.. 204
Fotich, Constantin.....202, 240
France:
agreement respecting deliveries in kind.....190–192
agreement with Germany, Jan. 20, 1930..... 192
annuities deferment.....60–61
Arbitral Tribunal.....199–200
convention respecting Bank for International Settlements..203–204
debt agreements.....132–133, 240
financial agreement (annex I to protocol of Aug. 31, 1929)...188, 189
Franco-German convention on liquidation of private property.....125, 127, 195
guaranty fund in respect of unconditional annuities.....182, 187–188, 230
mobilization of nonpostponable annuities.....74–75
out-payments for year ending Mar. 31, 1930..... 161
party to Concurrent Memorandum on out-payments..128, 133, 135, 241–243
proportionate participation in annuity mobilization..... 229
percentage of liberation debt payments..... 122

PAGE

France — Continued.
receipts —
under annuity payments . 59, 179–181
under Czechoslovak liberation debt payments 123
under Dawes annuity 86
under deliveries in kind 184
under nonpostponable portion of annuities 76
under Spa percentages 4
reconstruction 6, 7
Reparation Recovery Act —
deliveries under 7, 83, 196–197
right to levy under 191, 196
Trust Agreement with Bank for International Settlements . . 220–232
unconditional annuity, amount allocated to 182, 187–188
Francqui, Emile:
member of Committee of Experts, 1929 . . . . . 19, 137, 143, 177
signatory of —
agreement with Germany, Jan. 20, 1930 202
arrangement respecting intergovernmental debts 240
Concurrent Memorandum 243
convention respecting Bank for International Settlements . . 206
declaration respecting sanctions 48
statement respecting Belgian marks settlement 137

German-American mixed claims agreement 66–67, 243–248
German-American Mixed Claims Commission 65, 244
German-American treaty of Aug. 25, 1921 64–65
German External Loan of 1924:
allocation of nonpostponable annuities to 76, 234
confirmation of priority rights . . . 198
security for 162–163
service of —
adjustment to annuity payments 55, 233–234
amounts assigned under Dawes Plan annuity years 86–87
provisions of New Plan respecting 193, 196, 231, 233–234
German industrial debentures 69–70
German Railway Co.:
bonds 71–72
certificate of liability 108, 196, 237
contributions under Dawes plan . 69, 71
contributions under New Plan 162, 163–164, 165
direct tax on 72–73, 163, 237

PAGE

Germany:
acceptance of status of eventual debtor 133
agreement at Hague Conference, Jan. 20, 1930 192–202
agreement with United States . . . 66–67, 243–248
Anglo-German convention for liquidation of private property 126–127
annual payments under Belgian marks agreement 137, 139
Arbitral Tribunal, relation to . 199–200
bank law of Aug. 30, 1924, amendment of 196
Belgo-German convention for liquidation of private property . 125
Belgo-German marks agreement 135–139
benefits from modifications in out-payments 134, 242–243
budget contributions in payment of annuities 162, 165–166
commercialization and mobilization —
bond issues 173–174, 229–230
collateral guaranties 108
contributions of German Railway Co. in payment of annuities . . . 162, 163–164
convention respecting Bank for International Settlements . . . 203–204
conventions on liquidation of private property 125, 195
currency depreciation 9
debt certificate 232–238
deposit with Bank for International Settlements —
amount 225–226, 230
long-term 217
regulation 226, 230
Deutsche Reichsbahngesselschaft, amendment of law governing . . 196
External (Dawes) Loan of 1924 —
allocation of nonpostponable annuities to 76, 234
confirmation of priority rights . 198
security 162–163
service of —
adjustment to annuity payments 55, 233–234
amount assigned under Dawes Plan annuity years 86–87
provisions of New Plan respecting 193, 196, 231, 233–234
financial agreement (annex I to protocol of Aug. 31, 1929) . . 188, 189
flight of capital 10
Franco-German convention for liquidation of private property . 127

PAGE

Germany — Continued.
fulfillment of obligations under debt certificate.....237–238
German-American Mixed Claims Commission.....65, 244
joint liability, abolition of.21, 116, 172
liquidation of German property in Alsace-Lorraine, France, Morocco..... 127
nationalist opposition to Young Plan —
referendum.....37, 38
statement of government..... 37
nonpostponable annuities.....166–167
notes exchanged with United States.....67, 248–249
party to Concurrent Memorandum on out-payments.128, 133, 135, 241–243
payments under Annuity Trust Account..... 99
Polish-German convention for liquidation of private property.....125–126
postponable annuities.....167, 235
postponement of transfer..77–80, 155, 157, 196, 227–228, 234, 235–237
renunciation of rights to Eupen and Malmédy.....136–137
reparation payments —
conspectus of all..... 140
original schedule..... 5
Belgium.....139, 140
United States..... 140
Young annuity..... 140
representation on Committee of Experts, 1929.....143–144
right of redemption of nonmobilized annuities..... 235
Schacht memorandum.....38–39
schedule of annuity payments.159–160
less payments to United States.....232–233
total payments..... 56
treaty with United States, Aug. 25, 1921.....64–65
utility of Bank for International Settlements.....155–156
Governmental debts, payment of.....128–141
Grand Council of the Federation of British Industries, attitude respecting deliveries in kind of.. 83
Grandi, Dino..... 30
Great Britain:
adjustment of percentage of receipts.....63–64
agreement respecting deliveries in kind.....190–192
agreement with Germany, Jan. 20, 1930..... 192

PAGE

Great Britain — Continued.
Anglo-German convention on liquidation of private property. 125, 126, 127, 195
Arbitral Tribunal, relation to.199–200
convention respecting Bank for International Settlements...203–204
debt agreements.....132–133, 240
debt to United States..... 130
financial agreement (annex I to protocol of Aug. 31, 1929).... 188, 189, 190
intergovernmental debts, position respecting..... 130
out-payments for year ending Mar. 31, 1930..... 161
party to Concurrent Memorandum on out-payments....128, 133, 135, 241–243
proportionate participation in annuity mobilization..... 229
percentage of liberation debt payments..... 122
receipts —
under annuity payments, etc., *see* British Empire.
under Czechoslovak liberation debt payments..... 123
under deliveries in kind..... 184
under Spa percentages..... 4
reparation demands.....25–28, 64
Reparation Recovery Act —
deliveries under.....6, 83, 197
right to levy under.....191, 197
Trust Agreement with Bank for International Settlements.220–232
Greece:
agreement with Germany, Jan. 20, 1930..... 192
annuities deferment.....60–61
governmental debts, agreements for settlement of.....239–240
out-payments for year ending Mar. 31, 1930..... 161
percentage of liberation debt payments..... 122
receipts —
under annuity payments 59, 179–181
under Czechoslovak liberation debt payments..... 123
under Dawes annuity..... 86
under deliveries in kind..... 185
under Spa percentages..... 4
signatory of agreement respecting out-payments..... 135
Guaranty for German obligations:
collateral guaranty..... 237
communiqué of German government..... 49
effect of German-American agreement..... 67

PAGE

Guaranty for German obligations — Continued.
French attitude..... 45
German statement.....44–45
solution reached respecting.....46–48
Gutt, Camille.....143, 177, 243

Hague Conference, 1929–1930:
agreement of Aug. 30, 1929.....28–30
agreement with Germany, Jan. 20, 1930.....192–202
agreements concluded at.....41–44
committees appointed by president of..... 36
convention respecting Bank for International Settlements..203–204
debt mobilization decision....110–111
final protocol..... 1
first session —
agreement of Aug. 30, 1929 — effects..... 30
signatories..... 30
text.....29–30
British opposition to Young plan provisions.....23–28
committee of verification and control.....22, 29
constitution of committee on deliveries in kind..... 84
elimination of sanctions.....28–30
governments represented..... 23
political committee..... 28
problems considered..... 22
protocol of Aug. 31, 1929...188–192
provisions respecting deliveries in kind.....83–84
Rhineland —
end of occupation.....31–35
exchange of notes respecting evacuation.....33–34
financial arrangements respecting evacuation.....31–32
railroad construction agreement respecting..... 35
protocol of Aug. 31, 1929..22, 28, 35, 188
annex I, financial agreement 188–190
annex II, agreement regarding deliveries in kind.....190–192
second session —
governments represented..... 40
Hungarian settlement.....120–122
notes respecting final agreement on sanctions.....46–48
organization.....40–41
revision of schedule of deliveries in kind..... 85
special decisions.....44–49
Hankey, M. P. A.....190, 192
Henderson, Arthur.....30, 34
Hilferding, Herr..... 39
Hirota, K.....48, 202, 206

PAGE

Hungarian claims settlement:
fund 'A' under..... 121
fund 'B' under.....121–122
Hungary:
conspectus of reparation payments by..... 140
distribution of debt payments... 122
optants question.....120, 121
payments in liquidation of the war..... 120
quota of Austro-Hungarian debt. 118
settlement of claims of nationals.....120–122
Hymans, Paul:
signatory of —
agreement of Aug. 30, 1929... 30
agreement with Germany, Jan. 20, 1930..... 202
arrangement respecting intergovernmental debts..... 240
convention respecting Bank for International Settlements... 206
declaration respecting sanctions 48
joint note to Stresemann..... 34

Index of prosperity abolished..... 53
India:
agreement with Germany, Jan. 20, 1930..... 192
receipts under Spa percentages.. 4
Industrial Charges Law..... 164
Inter-Allied Rhineland High Commission.....16, 32
Intergovernmental indebtedness:
American position.....129, 131
arrangement of Jan. 20, 1930..239–240
British position..... 130
Concurrent Memorandum of Committee of Experts, 1929 —
amount of annuities required to cover out-payments.....128, 241
modifications in out-payments.133–135, 242–243
provisions for debt reconsideration.....242–243
relation of out-payments to total annuities..... 133
relation of postponable annuities to inter-allied war debts. 243
text.....241–243
debt agreements of France, Great Britain, United States....132–133, 239–240

Italy:
agreement respecting deliveries in kind.....190–192
agreement with Germany, Jan. 20, 1930..... 192
annuities deferment.....60–61
Arbitral Tribunal, relation to.199–200

PAGE

Italy — Continued.
convention respecting Bank for International Settlements...203–204
financial agreement (annex I to protocol of Aug. 31, 1929)..188, 189
governmental debts, agreements for settlement.....239–240
Italo-German convention on liquidation of private property..... 195
out-payments for year ending Mar. 31, 1930..... 161
party to Concurrent Memorandum on out-payments.....128, 133, 135, 241–243
proportionate participation in annuity mobilization..... 229
quota of Austro-Hungarian debt. 118
receipts —
percentage of liberation debt payments..... 122
under annuity payments 59, 179–181
under Czechoslovak liberation debt payments..... 123
under Dawes annuity..... 86
under deliveries in kind..... 184
under nonpostponable portion of annuities..... 76
under Spa percentages..... 4

Japan:
agreement respecting deliveries in kind.....190–192
agreement with Germany, Jan. 20, 1930..... 192
annuities deferment.....60–61
Arbitral Tribunal, relation to.199–200
convention respecting Bank for International Settlements..203–204
financial agreement (annex I to protocol of Aug. 31, 1929). 188, 189, 190
proportionate participation in annuity mobilization..... 229
receipts —
percentage of liberation debt payments..... 122
under annuity payments 59, 179–181
under Czechoslovak liberation debt payments..... 123
under Dawes annuity..... 86
under deliveries in kind..... 185
under nonpostponable portion of annuities..... 76
under Spa percentages..... 4
Jaspar, Henri:
committee of jurists, summoning of..... 36
delivery to governments of certified copies of agreement of Jan. 20, 1930..... 200

PAGE

Jaspar, Henri — Continued.
president of Hague Conference.. 23
signatory of —
agreement with Germany, Jan. 20, 1930..... 202
arrangement respecting intergovernmental debts..... 240
convention respecting Bank for International Settlements.. 206
declaration respecting sanctions 48
protocol of Aug. 31, 1929, and annexes.....190, 191, 192
Joint liability, dissolution of 116–124, 172

Kastl, Herr:
Concurrent Memorandum, signatory of..... 243
member of Committee of Experts, 1929.....144, 177
note respecting Eupen and Malmédy..... 137
Kreuger & Toll:
loan to Germany..... 111

Lamont, Thomas W....19, 137, 144, 177
Larkin, Peter..... 202
Liberation debts:
Czechoslovakia.....122, 123
distribution of.....122, 123, 124
Italy..... 124
Poland..... 124
Rumania..... 124
Yugoslavia..... 124
Liquidation of reparation problem.18–49
Liquidation of the past:
Austrian indebtedness.....118, 119
Bulgarian indebtedness..... 119
committee on.....36, 118, 119
distribution of Austro-Hungarian debts among succession states. 118
Hungarian claims settlement..120–122
Hungarian indebtedness.....119, 122
joint liability —
Austria.....117–119
Bulgaria.....116–117
pronouncement of Committee of Experts, 1929....116, 118, 172
pre-Dawes accounts —
German payments..... 112
German private holdings abroad..... 113
German public property in ceded territories..... 113
obsolescence.....114–116
Ruhr period liquidation..... 113
recommendations of Committee of Experts, 1929.....171–173
unliquidated property —
claims relinquished under conventions..... 127

PAGE
Liquidation of the past—Continued.
conventions respecting.....125–127
provisions of Peace treaty respecting..... 124
recommendations of Committee of Experts, 1929 124–125, 172–173
Lloyd George, David..... 24
London Conference, 1924.....15, 65, 91
Loucheur, Louis.....48, 202, 206, 240
Lugosiano, J.....202, 240

Mannesmann Brothers..... 127
Marinkovitch, Dr. Voyislav..... 240
Matsui, Yasumune..... 144
McKenna, Reginald..... 10
Melchior, Dr. Carl.....19, 144
Mellon, Andrew W..... 129
Miescher, Dr. R..... 206
Mironesco, Georges G.....202, 240
Mixed Arbitral Tribunals.....120, 121
Mobilization of nonpostponable annuities.....74–75
Moldenhauer, Dr. Paul.....39, 48, 49, 202, 206, 240
Moreau, Emile.....109, 177, 243
Moret, C..... 143
Morgan, J. P.....144, 177
Morgan, J. P., & Co..... 204
Mori, Kengo.....144, 177
Morocco, German properties in.... 127
Mosconi, A.....48, 202, 206, 240
Mrozowski, Jean..... 202

Neuilly, treaty of..... 117
Newfoundland:
receipts under Spa percentages.. 4
New Plan:
agreement with Germany, Jan. 20, 1930—
abandonment of right of property liquidation..... 194
acceptance of New Plan by creditor governments 193, 194, 198
agreements governing waiver of claims and cessation of liquidation..... 195
arbitration of disputes.....198–199
final clause.....200–202
German acceptance of New Plan..... 193
German waiver of claims....193–194
powers of creditor governments 188–190, 195
replacing previous obligations. 193
signatories of..... 202
Small Special Committee..... 195
states parties to.....192–193
annexes.....178–188
annuities under.....56–58
Arbitral Tribunal..199–200, 218–219

PAGE
New Plan — Continued.
Bank for International Settlements.....203–238
contrasted with Dawes Plan...174–176
elements comprising.....20–21
entrance into force.....1, 44, 201
features —
attainment of financial autonomy by Germany..... 175
disappearance of index of prosperity..... 175
financial organization.....175–176
fixation of period and debt.... 174
mobilization..... 175
postponement safeguards..... 175
summary..... 176
German Railway Co.....72–73
note under..... 142
protocol of Aug. 31, 1929, and annexes.....188–191
purpose..... 1
relation of Belgian marks settlement to..... 136
report of Committee of Experts, 1929, and annexes.....142–187
New Zealand:
agreement with Germany, Jan. 20, 1930..... 192
convention with Germany on liquidation of private property.....125, 195
receipts under Spa percentages.. 14
Notes exchanged in connection with agreement between Germany and United States.....67, 248–249

Organization Committee of Bank for International Settlements.....36, 93–94
Osusky, Stefan..... 202
Out-Payments:
allocation for year ending Mar. 31, 1930.....63, 161
amount of annuities required to cover..... 241
Concurrent Memorandum respecting.128–129, 133–135, 241–243
modifications in.....133–134, 242–243
payments in respect of.....57, 58, 59
relation of annuities to.....55–59

Parmentier, Jean:
Concurrent Memorandum, signatory of..... 243
member of Committee of Experts, 1929..... 19
report on debt mobilization..... 109–110, 177
Payments, conspectus of..... 140
Peace Conference, reparation settlement at..... 3

PAGE

Perkins, Thomas N.:
chairman of Tribunal of Interpretation..... 19
member of Committee of Experts, 1929.....19, 144, 177
Permanent Court of International Justice.....121, 199
Pirelli, Alberto:
member of Committee of Experts, 1929.....19, 144, 177
signatory of —
agreement with Germany, Jan. 20, 1930..... 202
arrangement respecting intergovernmental debts..... 240
Concurrent Memorandum.... 243
convention respecting Bank for International Settlements... 206
declaration respecting sanctions 48
Poland:
agreement with Germany, Jan. 20, 1930..... 192
annuities deferment.....60–61
Polish-German convention on liquidation of private property.....125, 126 195
quota of Austro-Hungarian debt. 118
receipts —
under annuity payments 59, 179–181
under Dawes annuity..... 86
value of state properties acquired 123
Politis, Jean Georges.....202, 240
Politis, Nicolas.....202, 240
Portugal:
agreement with Germany, Jan. 20, 1930..... 992
annuities deferment.....60–61
governmental debt, agreement for settlement..... 240
out-payments for year ending Mar. 31, 1930..... 161
proportionate participation in annuity mobilization..... 229
receipts —
under annuity payments 59, 179–181
under Czechoslovak liberation debt payments..... 123
under Dawes annuity..... 86
under deliveries in kind..... 185
under nonpostponable portion of annuities..... 76
under Spa percentages..... 4
signatory of agreement respecting out-payments..... 135
Postponement of transfer:
Bank's receipt for annuity payments during..... 234
declaration of German government respecting..... 196
procedure...77–80, 227–228, 235–237
purpose.....77, 155, 157

PAGE

Receipts on all intergovernmental accounts, 1930–1936..... 141
Reichsbank:
annuities account at..... 165
law governing.....48, 160
relations with Bank for International Settlements....150, 154, 155, 207, 212
reports of..... 146
Reichsmark:
convertibility..... 160
value..... 161
Reparation Commission:
abolition.....21, 53, 92, 195
American representation on..... 90
appointment of Agent-General.. 91
appointment of Sir Charles Addis..... 144
Austria, exception from reparation payments..... 117
composition..... 89
default of Germany, decision on. 8, 31
determination of German pre-Dawes payments.....112–113
entrance into force of New Plan. 201
First Committee of Experts, appointment of..... 9
functions..... 3, 89
Hungary, exception from reparation payments..... 117
invitation to United States..... 18
operation.....90–91
pre-Dawes accounts closed with. 193
resolution deploring death of Lord Revelstoke..... 144
schedule of reparation payments prepared by..... 5–7
Second Committee of Experts, appointment of..... 9
succeeded by Bank for International Settlements in disbursements under deliveries in kind account..... 82
Reparation Recovery Acts:
British and French privileges under..... 191
deliveries under.....6, 7, 9, 83, 186
Reparation settlement at Peace Conference..... 3–4
Revelstoke, Lord.....143, 144
Rhineland:
evacuation.....16, 22, 31–35
expenses of occupation..... 32
Inter-Allied High Commission..16, 32
notes confirming evacuation.....33–34
railroad construction agreement 35
Ritter, Dr..... 137
Ruhr occupation..... 7
Rumania:
agreement with Germany, Jan. 20, 1930..... 193

PAGE

Rumania — Continued.
annuities deferment.....60–61
governmental debts, agreements for settlement.....239–240
quota of Austro-Hungarian debt. 118
out-payments for year ending Mar. 31, 1930..... 161
percentage of liberation debt payments..... 122
receipts —
under annuity payments 59, 179–181
under Dawes annuity..... 86
under deliveries in kind..... 185
under Spa percentages..... 4
signatory of agreement respecting out-payments..... 135
value of state properties acquired 123
Ryrie, Granville..... 202

St. Germain, treaty of..... 118
Sanctions, elimination of.....28–35
Schacht, Dr. Hjalmar:
action of German government respecting..... 49
attitude on Bank..... 48
Concurrent Memorandum, signatory of..... 243
letter respecting Eupen and Malmédy.....136–137
member of Committee of Experts, 1929.....19, 143, 177
memorandum.....38–39
Schedule of annuities.....52–53
Schedule of payments, 1921....5–6, 118
Schmidt, Herr.....48, 202, 240
Second Committee of Experts:
constitution..... 9
functions..... 9–10
Serb-Croat-Slovene State, *see* Yugoslavia.
Serbia, *see* Yugoslavia.
Snowden, Philip:
German liquidation convention, attitude on.....126–127
Hague demands.....25–27
objections to Experts' report.... 24
signatory of —
agreement with Germany, Jan. 20, 1930..... 202
arrangement respecting intergovernmental debts..... 240
convention respecting Bank for International Settlements.. 206
declaration respecting sanctions 48
Sonoda, Saburo..... 144
South Africa, Union of:
agreement with Germany, Jan. 20 1930..... 192
receipts under Spa percentages.. 4
Spa percentages of distribution.... 4

PAGE

Special Advisory Committee:
composition.....78, 168–169
convening of.....78, 102, 167, 237
functions.....78–80, 168, 236–237
organization..... 168
Stamp, Sir Josiah Charles:
Concurrent Memorandum, signatory of..... 243
member of Committee of Experts, 1929.....19, 143, 177
Stresemann, Dr. Gustav:
agreement of Aug. 30, 1929, signatory of..... 30
conversation with Briand..... 16
Succession states, *see* Czechoslovakia, Italy, Poland, Rumania, Yugoslavia, respectively.
Suvich, Fulvio:
member of Committee of Experts, 1929.....19, 144, 177
signatory of —
arrangement respecting intergovernmental debts..... 240
Concurrent Memorandum.... 243
convention respecting Bank for International Settlements.. 206
declaration respecting sanctions 48
Swedish Match Co., loan to Germany..... 111
Switzerland:
convention respecting Bank for International Settlements.... 196, 203–204
reference of disputes respecting Bank for International Settlements to Arbitral Tribunal... 203

Terlinden, Baron..... 143
Titulesco, Nicolas..... 202
Toms, E..... 202
Total German payments..... 56
Transfer Committee..... 77
Treaty of Neuilly..... 117
Treaty of St. Germain..... 118
Treaty of Trianon.....118, 120, 121
Treaty of Versailles:
definition of Rhineland zones...16–17
liquidation provisions.....115, 124
provision for deliveries in kind... 80
provisions for commercialization and mobilization..... 106
provisions for management of reparation..... 89
provisions respecting Eupen and Malmédy..... 136
renunciation by Belgium of property liquidation rights..... 125
reparation settlement under.... 3–4
value of German properties liquidated in France, Alsace-Lorraine and Morocco..... 127

PAGE

Trianon, treaty of.....118, 120, 121
Tribunal of Interpretation...2, 19, 103–104, 162, 199
see also Arbitral Tribunal.

Ulrich, R..... 202
United States:
agreement with Germany....66–67, 243–248
annuities deferment.....60–61
Arbitration Tribunal, relation to. 199
attitude respecting Committee of Experts, 1929..... 18
Belgian debt funding agreement.....131–132
costs of army of occupation....65–66, 244–245
German-American Mixed Claims Commission.....65, 244
German payments to..... 140
governmental debts —
act of Feb. 9, 1922, respecting.....130–131
agreements for settlement.... 132–133, 239
attitude respecting.....129, 131
creation of World War Foreign Debt Commission..... 129
opinion of Sec. Mellon respecting..... 129
rejection of safeguarding clause respecting payment of..... 131
Treasury bill for settlement of. 129
non-participation in Concurrent Memorandum..... 128
notes exchanged with Germany.. 67, 248–249
receipts —
statement of President respecting..... 66
under annuity payments..... 59, 179–181
under Dawes annuity.....65, 86

PAGE

United States — Continued.
special position.....64–67
treaty with Germany, Aug. 25, 1921.....64–65

Versailles, *see* Treaty of Versailles.
Voegler, Dr. A..... 144

Wirth, Dr.....48, 202, 240
World War Foreign Debt Commission:
creation..... 129
rejection of safeguarding clause 131
settlements made.....130–131

Young, Owen D.....19, 137, 177
Young Plan:
see New Plan.
Yugoslavia:
agreement with Germany, Jan. 20, 1930..... 193
annuities deferment.....60–61
governmental debts, agreements for settlement.....239–240
out-payments for year ending Mar. 31, 1930..... 161
proportionate participation in annuity mobilization..... 229
quota of Austro-Hungarian debt. 118
percentage of liberation debt payments..... 122
receipts —
under annuity payments 59, 179–181
under Dawes annuity..... 86
under deliveries in kind..... 185
under nonpostponable portion of annuities..... 76
under Spa percentages..... 4
signatory of agreement respecting out-payments..... 135

Zeuceano, A.....202, 240

Index for

LATIN AMERICAN RELATIONS WITH THE LEAGUE OF NATIONS

By WARREN H. KELCHNER, PH.D.

VOL. XII NO. 6

INDEX

PAGE

Adatci, Minéitciro..... 149
Advisory Committee on Traffic in Opium..... 167
Advisory and Technical Committee for Communications and Transit..... 118
Agüero y Bethancourt, Dr. Aristides.....116, 117–119
Alfaro, Dr. Araoz..... 178
Alvarez, Alejandro.....83, 84
Alvear, Dr. Marcelo T. de:
  Argentine minister at Paris..... 47
  First Assembly, delegate to..... 91
  increased cooperation of Argentina under..... 102
  League, Argentine adherence to. 101
Amador, Dr.....122, 147
Amaral, Gurgel do..... 185
American Institute of International Law.....5, 83
Ames, Sir Herbert..... 148
Ancón, treaty of..... 44
Aramayo, Carlos V.....79, 81
Arbitration:
  acceptance in Latin America.... 109
  Argentina, employment of..... 86
  Brazil, employment of..... 86
  Chile, employment of..... 86
  Panamá, support of..... 120
  Uruguay, support of..... 108
  Venezuela, support of..... 112
Argentina:
  arbitration, use of..... 86
  Bolivia-Paraguay dispute, interest in.....180, 186, 187
  Conference of Health Experts on Infant Mortality..... 176
  emigrants, questionnaire on inspection of..... 203
  financial obligations. 101, 102, 169, 170, 171, 172, 175
  Great War, rôle in —
    economic factor.....29, 30
    Irigoyen, policy of.....31–32
    Luxburg cablegrams.....30–31
    neutrality, policy of.....29–30
    severance of diplomatic relations favored by Congress.. 30
    ships sunk by submarines..... 30
  International Labor Conferences, representation at.....196–197
  International Labor Organization —
    draft conventions, action respecting..... 206
    member of Governing Body. 198, 204
    original member..... 195

PAGE

Argentina — Continued.
  League of Nations —
    adherence to Covenant.....47–48
    budget quotas, *see* financial obligations.
    Bureau on the League of Nations..... 102
    Committee on Composition of the Council, invitation to be represented on..... 102
    conflict between President and Congress.....48–49
    Covenant, proposed amendments to —
      compulsory arbitration..... 93
      discussion of.....95–96
      membership, universality of 93, 94
      memorandum of Dec.4, 1920 94–95
      report of First Committee respecting.....99–100
      Second Assembly, considered by..... 99
    First Assembly —
      delegation to..... 91
      legality of representation at. 92
    increased cooperation under President de Alvear..... 102
    International Labor Conferences, attendance at.....101, 102
    liaison arrangements..... 146
    membership, acquisition of —
      nonparticipation under President Irigoyen.....100–101
      permanent observer at Geneva 102
      policy respecting.....97–98
      President de Alvear, message of 101
      ratification..... 48
      registration of treaties..... 102
      renewed efforts for.....102, 103
      resumption, question of. 101–102, 103
      uncertainty of..... 91
      withdrawal from.....96, 97
  League of Nations Society in.... 148
Arocha, Manuel..... 152

Balfour, Lord..... 82
Barbosa, Ruy.....17, 18
Barcelona Conference on Communications and Transit..... 147
Barros Borgoño, Luís.....50, 75
Beichmann, Fréderic..... 84
Belgium, reduced fare for scout groups..... 88
Bellegarde, Louis Dantes....14, 134, 135
Blanco, Dr. Juan Carlos.....107, 108
Bolívar, Simón..... 2

PAGE

Bolivia:
armaments, questionnaire on reduction of expenditures on.... 169
Conference of Health Experts on Infant Mortality..... 176
financial obligations.....114, 170, 172, 173, 175
Great War, rôle in..... 28
International Labor Conferences, representation at.....196–197
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
League of Nations —
Assemblies, representation at 113–114
Health Committee, request for assistance of..... 114
membership, acquisition of.... 10
treaty of Oct. 20, 1904, request for revision of.....76, 104
statement respecting..... 81
withdrawal of.....77, 104, 113
Paraguay, dispute with.....179–193
see Bolivia-Paraguay, dispute between.

Bolivia — Paraguay, dispute between:
Argentina, interest in..... 180
Bolivia, notification to Council of acceptance of good offices of American conference by..... 187
Bolivian communication to Secretary-General, Jan. 25, 1930... 192
Bolivian declaration of Jan. 24, 1930..... 192
Bolivian telegram of Jan. 22, 1930. 192
correspondence respecting, publicity of..... 193
Council —
Briand, president of —
aide-mémoire of.....186–187
conversations with Bolivian and Paraguayan ministers 186
coordination of efforts for peace..... 187
telegram of Dec. 16, 1928. 183–184
communications between Bolivia, Paraguay and —
Bolivian minister at Paris, telegram from..... 181
Bolivian telegram of Dec. 15, 1928..... 183
Bolivian telegram of Dec. 19, 1928..... 187
Briand, reply of.....187–188
Bolivian telegram of Jan. 4, 1929..... 188
Bolivian telegram to M. Briand, Dec. 17, 1928... 184

PAGE

Bolivia — Paraguay, dispute between — Continued.
Council telegram of Dec. 11, 1928.....180–181
Bolivian acknowledgement, Dec. 13, 1928..... 181
Bolivian reply, Dec. 15, 1928.....181–182
Council telegram of Dec. 11, 1928 —
Paraguayan reply, Dec. 13, 1928..... 181
Council telegram of Dec. 15, 1928.....182–183
consideration by.....180, 182
decision reached by..... 182
Zaleski, president, action of 191–192, 193
first threat of war in Latin America since League establishment 179
Fort Boquerón, clash at..... 187
Gondra treaty, obligations under 185
incidents in.....180, 187, 191
International Conference of American States on Conciliation and Arbitration, action of —
Commission of Inquiry and Conciliation —
constitution..... 188
report.....190–191
Gondra commission, protest against Bolivian withdrawal from..... 185
good offices, acceptance of.... 187
resolution of..... 184
second session.....185–186
special committee —
composition of..... 185
conciliation protocol prepared by..... 188
report of.....185–186
League Members, replies to Council of.....188–189
mediation, cooperation in..... 190
nature..... 179
Paraguayan communications to Secretary-General, Jan. 21, 1930..... 191
Paraguayan declaration of Jan. 30, 1930..... 192
Secretary-General, message of Jan. 31, 1930..... 193
Uruguay, mediation of.....191, 193
Bonilla, Policarpo..... 51
Borgoño, Luis Barros, *see* Barros Borgoño, Luis.
Branco-Clark, Frederico de Castello.....61, 63
Branting, Hjalmar..... 98

PAGE

Brazil:
arbitration, use of 86
armaments, questionnaire on reduction of expenditures on.... 169
Conference of Health Experts on Infant Mortality 176
Covenant, addition to Art. 26 of.. 42
emigrants, questionnaire on inspection of 203
financial obligations 170
Great War, rôle in —
Brazilian League for the Allies 17
Chamber of Deputies, resolution of 17
decree of technical neutrality.. 19
economic effects 17–18
Germany, relations with...18, 19–21
importance 16
Parana, sinking of 19
policy of continental solidarity announced 20
Rio Branco, sinking of 18
significance 21
similarity in policy with United States 18
state of war with Germany...20–21
International Labor Conferences, representation at 196–197
International Labor Organization —
draft conventions, action respecting 206
original member 195
League of Nations —
Assembly committees, permanence of 57
cooperation since withdrawal from 71, 73
Council —
elected to 55, 56
re-elected to 56–57, 61
resignation from 70–71
Council, permanent seat on —
Assembly, Extraordinary Session of 66
Brazilian position 68–70, 71
grounds for claiming....65–66, 70
joint note of American delegations 67–68
nonsupport of other Latin-American states 67–68
plan formulated respecting..66–67
Poland and Spain, claims of. 66
Covenant, amendment of.....59–60
declaration of American position respecting security.....63–64
disarmament, position respecting 62–64
Elihu Root, nomination for Court of 60
Fifth Assembly, rôle at 62–63

PAGE

Brazil — Continued.
Fourth Assembly, rôle at..... 61
Germany, attitude on admission to Council of 64–65
invitation to resume..... 72
reply to 72–73
Latin American Bureau..60, 153–154
liaison arrangements.....145, 146, 147
membership, acquisition of.....10, 42
organization 57
permanent delegation 61, 62
private manufacture of arms, question raised respecting... 56
technical organizations, proposal for constitution of.... 56
Third Assembly, rôle at..... 61
withdrawal from 7, 71
Permanent Court of International Justice —
constitution 58
jurisdiction, compromise respecting 58–59
represented on 60
protocols amending Covenant, action respecting 164, 165
Brazilian League for the Allies.... 17
Brazilian Red Cross 17
Briand, Aristide 66, 183, 184, 186, 188, 189
Brum, Dr. Baltasar 21
Bryan-Chamorro treaty 38
Buero, Enrique 108–109
Buero, Juan Antonio 51
Bulgaria:
Greece, dispute with 118
scout groups, reduced fares for... 88
Bulgaro-Greek incident 118
Burgos, Antonio 122, 123
Bustamante, Dr. Antonio Sanchez de 43, 115, 194

Caballero, Dr. Ramon V..... 115
Cabrera, President 37
Canada:
League of Nations liaison bureau 144–145
Canelas, Demetrio 80
Caperton, Rear-Admiral.....24, 37
Carneiro, Dr. J. A. Barboza..60, 63, 159
Carranza, President 40, 41
Cecil, Lord Robert 97
Central American Court of Justice 39
Cespedes, Sr. de 118
Chagas, Dr. Carlos 177
Chamberlain, Sir Austen 176
Chile:
arbitration, use of 86
Argentina, limitation of armaments agreement with 83
armaments, questionnaire on reduction of expenditures on.... 169

PAGE

Chile — Continued.
communications and transit conventions, signature and ratification of 166
Conference of Health Experts on Infant Mortality 176
financial obligations 170, 175
Great War, rôle in 32–33
International Labor Conferences, representation at 196–197
International Labor Organization —
draft conventions, action respecting 166, 206
original member 195
Latin American Bureau of League of Nations, plan for reorganization 153–154
League of Nations —
armaments, position respecting limitation of 83, 85–86
Art. 10, interpretation of obligations under 87
Art. 19 of Covenant, favorable interpretation of 81
Assemblies, representation at 74, 82–83, 84, 88
Bolivian Treaty of Oct. 20, 1904, revision of —
Bolivian request for 76
considered at Second Assembly 79–81
protest against consideration of 78
conference of press experts, proposal for 88
continental solidarity, policy of 90
Council —
elected member of 90
Latin American representation on 87
Covenant, revision of 83–84
definite program respecting . 49, 89–90, 91
Fourth Assembly, rôle at 85
increasing cooperation in . . 82, 84–85
international trade in arms, position respecting 83
joint note of Mar. 17, 1926 67–68
Latin American states, cooperation with 90
liaison arrangements of 146
membership, acquisition of —
acceptance by Congress 50
discussion in Congress 50
effect of Argentine adherence 50–51
original member 10
proposal respecting travel facilities for Boy Scouts, etc. 87–88
reasons for 75, 89–90

PAGE

Chile — Continued.
treaty of Oct. 20, 1883, Peruvian request for revision of . . 75–76
protocols amending Covenant, action respecting 164, 165
League of Nations Society in 148
Permanent Court of International Justice, representation on 84
traffic in women and children, ratification of convention on . . 167
China:
League of Nations —
budget quota in arrears 173
scout groups, reduced fares for . . 88
Clémenceau, Georges 48
Codesido, Emilio Bello 88, 146
Colmo, Sr 200
Colombia:
armaments, questionnaire on reduction of expenditures on . . 169
Bolivia-Paraguay dispute —
communication respecting 189
member of commission on 188
financial obligations 111, 170, 171, 172, 175
Great War, rôle in 33–34
International Labor Conferences, representation at 196–197
International Labor Organization —
draft conventions, action respecting 206
original member 195
League of Nations —
Council, elected member of . . . 111
"democratization" of 110–111
First and Second Assemblies, rôle at 110
interest in 110
joint note of Mar. 17, 1926 67–68
Latin American Bureau, plan for reorganization of 153–154
liaison arrangements 145, 146
membership, acquisition of 10, 54
Ministry of Foreign Affairs, special section on League . . . 112
payment of quotas 111
Urrutia, Francisco José, activity of 110
Commission of Experts on Organization of Secretariat 148
Commission of Inquiry and Conciliation on Bolivia-Paraguay dispute 188, 190–191
Commission on International Labor Legislation 194
Committee on Allocation of Expenses of League of Nations 118, 169, 172
Conci, Carlos Y. V 202
Conference of Health Experts on Infant Mortality 175–177

PAGE

Continental solidarity, policy of:
Bolivia, attitude of..... 28
Brazilian attitude respecting.19–20, 70
Caribbean republics favorable to. 34
Chile, favorable to..... 90
Ecuador, favorable to..... 29
factor in Latin American policies 11–12
Perú, followed by.....25–26
Salvador, observance of..... 39
Uruguay, attitude respecting....23–25
Uruguayan decree proclaiming doctrine of.....23–24
Conventions, International, participation in:
armaments, questionnaire on reduction of expenditures on..168–169
communications and transit.... 166
customs formalities..... 167
disregard of legal precision respecting..... 163
international labor..... 166
mutual assistance, draft treaty of 168
number of League conventions 162–163
obscene publications on..... 167
opium —
annual reports on..... 168
convention of Jan. 23, 1912.... 167
convention of Feb. 19, 1925... 167
import certificate system, adoption of..... 167
information sought from Latin America respecting.....167–168
protocol on arbitration clauses in commercial conventions..... 166
protocol 13..... 165
reasons for..... 163
supervision of international trade in arms and munitions..... 167
traffic in women and children... 167
Treaty of Versailles, protocol amending Art. 393 of..... 165
type.....162–163
Cooperation, special phases of...142–193
Cornejo, Mariano H.....46, 75, 164
Cortadellas, Alberto..... 114
Cortina, Dr. José Manuel..... 35
Costa Rica:
financial obligations.....131–132, 133, 170, 171, 172
Great War, rôle in..... 39
International Labor Conferences, representation at.....196–197
International Labor Organization, membership in..... 195
Latin American Bureau, plan for reorganization of.....153–154
League of Nations —
Assemblies, representation at. 131
budget quotas, *see* financial obligations.
membership, acquisition of..10, 51–52
Council invitation to resume.. 132

PAGE

Costa Rica — Continued.
Monroe doctrine, request for interpretation of..... 132
reply of Council..... 133
Panamá, dispute with —
cause..... 120
Council, action of.....121, 122
United States, mediation by.121–122, 179
resumption, consideration of.. 133
withdrawal from.....7, 132
Covenant of League of Nations:
amendments to, slowness in ratifying.....164–165
Art. 4, protocol of amendment to..... 164
Art. 6, protocol of amendment to..... 164
Arts. 13 and 15, protocol of amendment to..... 164
Art. 16, protocols of amendment to..... 165
Art. 19, scope of.....76, 80, 81
Cuba:
Bolivia-Paraguay dispute, member of commission on..... 188
Commission on International Labor Legislation, member of. 194
emigrants, questionnaire on inspection of..... 203
financial obligations under League of Nations.....169, 170, 171, 175
Great War, rôle in —
active participation.....34–35, 36
severance of diplomatic relations..... 35
United States, influence of....35–36
United States Food Administration, cooperation with... 36
International Labor Conferences, representation at.....196–197
International Labor Office, Governing Body, ratification of amendment reorganizing... 200
International Labor Organization —
draft conventions, action respecting.....166, 206
original member..... 195
League of Nations —
Agüero y Bethancourt, services of Señor.....116–119
Assemblies, representation at.. 116
codification of international law..... 119
Conference for Codification of International Law, proposal for women delegates to..... 119
Council —
activities in.....118–119
election to..... 118

PAGE

Cuba — Continued.
Cuban Society of International Law, commission of.....115–116
extent..... 115
Fourth Assembly, rôle at..... 117
health personnel, proposal for interchange of..... 118
joint note of Mar. 17, 1926....67–68
League of Nations Section of Department of State..... 115
Latin American Bureau, plan for reorganization of.....153–154
liaison arrangements..... 146
membership, acquisition of....10, 43
Ninth Assembly, delegation to. 119
value.....116–117
League of Nations Society in.... 148
protocols amending Covenant, action respecting.....164, 165
traffic in women and children, ratification of convention on.. 167
Cunha, Dr. Gastão da.....56, 122
Czechoslovakia —
relinquishment of Council seat.. 66
scout groups, reduced fare for... 88

Danish plan of March, 1919..... 94
De León, Señor..... 84
Descamp, Baron..... 84
Dominican Republic:
financial obligations to League of Nations.....170, 175
Great War, rôle in..... 40
International Labor Conferences, representation at.....196–197
International Labor Organization, membership in..... 195
League of Nations —
Assemblies, representation at.....136–137
joint note of Mar. 17, 1926....67–68
liaison arrangements..... 146
membership, acquisition of.10, 51, 52
Drago, Luis Maria..... 31
Drummond, Sir Eric.....47, 48

Ecuador:
Great War, rôle in..... 29
International Labor Conferences, representation at.....196–197
International Labor Organization, original member of..... 195
removal from list of members of..... 203
non-membership in League of Nations.....1, 10, 42
Edwards, Agustín:
arbitration, use in Latin America of..... 86
Art. 10, interpretation of obligations under..... 87

PAGE

Edwards, Agustín — Continued.
Assembly, chief of delegation to.....82–83, 85
Council, proposal respecting representation on..... 87
disarmament, Chilean thesis on..85–86
Mexico, declaration respecting admission of.....52–53
president of Third Assembly....84–85
Second Assembly, activity at.... 83
treaty of Oct. 20, 1904, argument against..... 80
Enciso, Julian..... 146

Fernandes, Raul:
Argentine proposals to amend Covenant, report on.....99–100
Covenant, amendment of..... 59
Fifth Assembly, delegate to..... 63
importance of services.....57, 59
jurisdiction of Court, solution of.58–59
Permanent Court of International Justice, constitutions of.....57–58
Fernandez y Medina, Benjamin.... 106, 107, 161
Ferrara, Orestes.....119, 185
Fifth International Conference of American States, 1923..62, 85, 86, 89
Financial obligations to League of Nations:
allocation of expenses.....169, 172
Assembly resolution of Sept. 26, 1924.....123–124, 131–132
budget, comparison with Pan American Union quotas for 1929..... 175
budget deficits, removal of..... 172
budget units payable by Latin American states..... 170
budget units, revised scale of.... 172
Committee on Allocation of Expenses.....169, 172
Committee on Amendments, recommendations of..... 173
International Labor Office, inclusion of expenses of.....129–130
Latin American attitude respecting.....169, 170–171
legal position of states in arrears.....173–174
nature..... 173
record of first year.....169–170
Seventh Assembly, resolution of.. 173
states in arrears —
Dec. 31, 1920..... 171
Dec. 31, 1921..... 172
Dec. 31, 1922..... 172
Aug. 31, 1929.....172–173
states receiving reduction in budget quotas..... 172
Foster, Manuel..... 185

PAGE
Gallardo, Dr. Angel..... 102
Gama, don Domicio da..... 61
Gana, Antonio Huneeus, *see* Huneeus Gana, Antonio.
Garay, Narciso..... 123
Garcia, Dr..... 199
Gemmill, Mr..... 199
Germany, permanent member of Council..... 66
Gomes, Bras P..... 19
Gondra treaty.....62–63, 185
Gonzales, President..... 133
Great Britain:
amendments to Arts. 13 and 15 of League Covenant..... 164
Greece:
Bulgaria, dispute with..... 118
League of Nations liaison bureau 144
scout groups, reduced fares for... 88
Guani, Alberto.....67, 106
Guatemala:
Bolivia — Paraguay dispute, communication respecting.... 189
financial obligations.....170, 171, 172, 173, 175
Great War, rôle in.....36, 37–38
International Labor Conferences, representation at.....196–197
International Labor Organization —
draft conventions, action on... 206
original member..... 195
League of Nations —
joint note of Mar. 17, 1926....67–68
liaison arrangements..... 146
membership, acquisition of....10, 51
participation in..... 137
Guerrero, Dr. T. Gustavo.....103, 128, 130, 131, 161

Haiti:
financial obligations to League....170, 171, 172, 175
Great War, rôle in..... 40
international education, proposal respecting..... 89
International Labor Conferences, representation at.....196–197
International Labor Office, Governing Body, ratification of amendment reorganizing..... 200
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
League of Nations —
Assemblies, representation at.. 134
Bondelzwart rebellion, resolution respecting.....134–135
histories, proposal for revision of..... 136

PAGE
Haiti — Continued.
Latin American Bureau, plan for reorganization of.....153–154
mandates —
Assembly resolution respecting..... 135
attitude respecting..... 135
membership, acquisition of....10, 51
protocols amending Covenant, action respecting.....164, 165
League of Nations society in.... 148
Health questions:
Conference of Health Experts on Infant Mortality, Montevideo —
countries represented..... 176
provision for investigations... 176
purpose.....175–176
significance.....176–177
Health Committee of League, Latin American representation on.....177–178
interchange of medical personnel 177
leprosy, investigation of..... 177
School of Public Health, Rio de Janeiro..... 177
Singapore bureau, exchange of information with..... 177
Honduras:
Bolivia — Paraguay dispute, communication respecting..... 189
financial obligations to League. 170, 171, 172, 173, 175
Great War, rôle in.....38–39
International Labor Conferences, representation at.....196–197
International Labor Organization, original member of..... 195
League of Nations —
Latin American Bureau, plan for reorganization of.....153–154
membership, acquisition of.....10, 51
participation in..... 138
Hughes, Charles Evans.....121, 122, 185
Huneeus Gana, Antonio. 51, 74, 78, 90, 94
Hungary, reduced fares for scout groups..... 88
Hymans, Paul.....79, 84

Inter-American Commission of Women..... 119
International Committee on Intellectual Cooperation, proposals submitted to.....107–108
International Conference of American States on Conciliation and Arbitration..184–186, 187, 188, 190
International conferences of American states..... 6
International Economic Conference 71
International Labor Office, *see* International Labor Organization.

PAGE

International Labor Organization:
Commission on International Labor Legislation..... 194
cooperation, effort for increased.. 207
Costa Rica, withdrawal from.... 203
creation..... 194
draft conventions —
amendments to..... 194
Latin American states, action respecting.....206–207
night work in bakeries, opposition to..... 203
number..... 205
object.....205–206
response to..... 206
"weekly rest in industrial undertakings"..... 200
Ecuador, removal from list of members of..... 203
Eighth Conference, 1926.....203–204
Eleventh Conference, 1928..... 204
emigrants, inspection of..... 203
Fifth Conference, 1923..... 201
financial obligations, status of.201, 202
Fourth Conference, 1922 —
Director, report of..... 201
representation at..... 200
International Labor Conference —
comparative attendance at, table showing..... 205
degree of participation in...204–205
incomplete delegations to...202–203
representation in sessions of, table showing.....196–197
International Labor Office —
Director, statement of..... 5
Governing Body —
reelections to.....203–204
Washington Conference, provisions respecting.....198–200
organization.....195, 198
purpose..... 195
Legislación social de America Latina..... 179
nature of activity..... 205
Ninth Conference, 1926..... 204
Pan American Union, cooperation of.....178–179
Preliminary Peace Conference, action of..... 194
propaganda respecting, appeal for.....201–202
sea and seamen, questions concerning.....200, 204
Second Conference, Genoa, 1920 200
Seventh Conference, 1925.....202–203
report of Director to..... 203
Sixth Conference, 1924.....201–202
states originally members..... 195
Tenth Conference, 1927..... 204
Third Conference, 1921..... 200

PAGE

International Labor Organization — Continued.
Twelfth Conference..... 204
Washington Conference of 1919 — draft conventions and recommendations of..... 200
Governing Body, provisions respecting.....198–200
states represented.....194–195, 198
Irigoyen, Hipólito:
Great War, position in.....31–32
League, attitude toward....97–98, 100
re-elected President of Argentina 102
statement to Congress..... 100
Italy, reduced fares for scout groups 88

Justiz, Dr. Carlos Carrera..... 198

Kellogg, Frank B.....185, 188
King, Wm. Lyon MacKenzie..... 144
Koo, V. K. Wellington..... 84

Lamas, Dr. Carlos Saavedra..... 204
Langaard Menezes, Rodrigo Octavio de.....57, 59
L'Association pour la Société des Nations..... 148
Latin America:
cooperation with League..... 2–8
international organization, development of..... 1, 4
Pan American Union and League of Nations..... 8–9
Latin American Liaison Bureau of League of Nations:
Commission of Experts on Organization of Secretariat, recommendations of..... 148
commission to Latin America... 148
establishment, reasons urged for 148–149
expenditures for..... 162
first members..... 152
functions.....151–152
"Liaison with Latin America," title changed to..... 162
location.....150, 151
Monthly Summary, Spanish edition of..... 153
organization, discussion of....150–151
reorganization of —
Fifth Assembly, resolution of 158–159
Fourth Assembly, resolution respecting..... 153
Fourth Committee of Fifth Assembly, report of..... 158
plan of Latin American delegates.....153–154
Secretary-General, memorandum respecting.....156–158

PAGE

Latin American Liaison Bureau of League of Nations — Continued.
Secretariat of League —
cooperation with.....147–148
incorporation into..... 162
representation on.....147, 148, 159–161, 162
Secretary-General, report on —
to Third Assembly.....149–150
to Fourth Assembly.....152–153
to Fifth Assembly..... 155
to Sixth Assembly..... 159
Uruguay, opposition to.....161–162
work of —
personal contacts, development of..... 154
Secretary-General, report on 149–150, 152–153, 155, 159
technical cooperation with Secretariat.....154–156
League of Nations:
Information Section, offices of.142–143
Latin American Bureau.....147–162
Latin American membership —
Assemblies, record of attendance at.....138–139
attitude of intelligentsia..... 13
Bolivia-Paraguay dispute, *see* Bolivia-Paraguay, dispute between.
budget quotas for, *see* Financial obligations.
closer cooperation, steps to secure..... 141
continental solidarity.....11–12
Conventions, participation in, *see* Conventions.
Council, representation on.... 139
finances, *see* Financial obligations.
health problems, *see* Health questions.
idealism.....14–15
importance in world affairs....15–16
method of acquiring, *see* individual states . . . Brazil, etc.
political protection.....13–14
prestige.....12–13
Secretariat, representation in 139–140, 147, 148, 159–161, 162
states acquiring.....10, 42, 138
Tenth Assembly, representation at..... 139
tradition.....10–11
value.....140–141
liaison arrangements of —
Argentina..... 146
Brazil.....145, 146–147
Canada.....144–145
Chile..... 146

PAGE

League of Nations — Continued.
Cuba..... 146
diplomatic agents accredited to League.....145–146
Dominican Republic..... 146
establishment..... 144
financing.....143–144
Greece..... 144
Guatemala..... 146
Mexico (non-Member)..... 146
Paraguay.....145, 146
purpose.....143, 144
types..... 145
Venezuela..... 146
League of Nations Association..... 148
League of Nations Union..... 148
Leprosy center, Rio de Janeiro.... 177
Liaison offices, *see* League of Nations.
Loubet, President..... 120
Luis, Washington..... 71
Luxburg, Herr..... 30

Madsen, Thorvald..... 176
Martin, Percy A.....33, 35
Maúrtua, Victor M.....45, 184, 185
Mello-Franco, Afranio de.....61, 62, 66, 67, 68, 70, 146
Menocal, Mario G.....35, 36
Mexico:
Bolivia-Paraguay dispute, member of commission on..... 188
Great War, rôle in —
neutrality, policy of.....40–41
proposal for neutral action.... 41
United States, difficulties with.....40, 41
Zimmermann dispatch..... 41
liaison arrangements with League of Nations..... 146
non-membership in League....1, 2, 10, 42, 52–53
Moacyr, Pedro..... 19
Modzelewski, M..... 150
Monroe doctrine.....53, 132, 133
Montarroyos, Elizen F. de..... 69
Morales, Dr. Eusebio A..... 125
Motta, Giuseppe..... 84

Naón, Ambassador..... 31
Negri, Sr..... 202
Nicaragua:
Bolivia-Paraguay dispute, communication respecting..... 189
Bryan-Chamorro Treaty..... 38
financial obligations to League of Nations..138, 170, 171, 172, 173, 175
Great War, rôle in..... 38
International Labor Conferences, representation at.....196–197

PAGE

Nicaragua — Continued.
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
League of Nations —
joint note of Mar. 17, 1926....67–68
liaison arrangements..... 146
membership, acquisition of.....10, 51
Noblemaire, M.....99, 149
Norway, arbitration project of..... 94

Oliveira, R. Regis de..... 61
Opium, *see* Conventions, international.
Oyarzabal, Sr..... 45

Pan American Sanitary Bureau...5, 179
Pan American Scientific Congress.. 53
Pan American Union:
Administrative Council..... 87
annual quotas of..... 175
budget, unit of..... 171
codification of international law, efforts for..... 111
cooperation with League —
fields of.....8–9, 178
health questions..... 179
labor information, collection of.....5, 179–180
value.....8–9, 179
Educational Section..... 89
Pan American Sanitary Bureau.. 179
Peruvian proposal considered by..... 26
Trade Advisor's Office..... 179
Panamá:
financial obligations to League... 123–124, 170, 171, 175
Great War, rôle in.....36, 37
International Labor Conferences, representation at.....196–197
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
League of Nations —
Art. 11, position respecting... 126
budget quotas, *see* financial obligations.
Canal zone, statement respecting.....126–127
compulsory arbitration, support of..... 120
Costa Rica, dispute with —
appeal to League respecting..... 121

PAGE

Panamá — Continued.
arbitral award, refusal to accept..... 122
Council —
action of..... 121
telegram of president..... 122
final settlement.....122, 179
nature..... 120
Secretary-General, action of 120
United States, mediation by.....121–122, 179
Council, election of members to.....122–123
intellectual cooperation, statement respecting.....127–128
Latin American Bureau, plan for reorganization of.....153–154
membership, acquisition of...10, 51
treaty with United States, July 28, 1926 —
non-ratification of..... 124
position respecting, statement of.....125–127
provisions of..... 124
United States, relations with..125–127
Panheiro, Dr. Nuno..... 55
Paraguay:
Bolivia, dispute, *see* Bolivia-Paraguay, dispute between.
Conference of Health Experts on Infant Mortality..... 176
financial obligations to League... 169, 170, 171, 172, 173, 175
Great War, rôle in..... 34
International Labor Conferences, representation at.....196–197
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
League of Nations —
joint note of Mar. 17, 1926....67–68
Latin American Bureau, plan for reorganization of.....153–154
liaison arrangements.....145, 146
membership, acquisition of... 10, 54, 115
Parra-Pérez, Dr. C..... 112
Pauli, Herr von..... 19
Peace Conference, Preliminary.... 194
Peralta, Manuel de.....81, 131
Perez, F. F..... 91
Permanent Court of International Justice —
constitution of.....57–58
optional clause..... 166
Protocol of Signature of Statute.....165–166
Permanent Mandates Commission.. 134, 135, 136

PAGE

Perú:
armaments, questionnaire on reduction of expenditures on... 169
financial obligations to League... 105, 170, 171, 175
Great War, rôle in —
continental solidarity, policy of.....25–26, 27
Lorton, sinking of.....26, 27
proposal for common American action..... 26
Senate declaration of Sept. 8, 1917.....26–27
severance of diplomatic relations..... 27
United States, support of..... 27
unrestricted submarine warfare, note respecting..... 26
International Labor Conferences, representation at.....196–197
International Labor Organization, original member of..... 195
League of Nations —
Bolivian petition, interest in.. 104
inclusion in Assembly agenda of treaty revision question, note respecting..... 79
membership —
reasons for.....43–45, 103–104
renewed activity following treaty with Chile, 1929... 106
resolution of National Assembly..... 46
Tacna-Arica question..104, 105–106
treaty of Oct. 20, 1883, request for revision of.....75–76, 103
withdrawal of.....77, 103
Treaty of Versailles, ratification of.....10, 43
United States, close relations with..... 104
protocols amending Covenant, action respecting..... 164
Uruguayan decree on continental solidarity, reply to..... 26
Pessõa, Epitacio da Silva.....55, 59, 60
Poland:
League of Nations —
claim of permanent seat on Council of.....65, 66
election to..... 66
international education, proposal respecting..... 89
Portsmouth Conference..... 145
Portugal, entrance into War of.... 18
Prado, President..... 26
Procopé, Hjalmar J..... 133
Pueyrredon, Honorio A.:
Argentine notification of withdrawal from League..... 96
Covenant, note acceding to..... 47

PAGE

Pueyrredon, Honorio A. — Continued.
First Assembly of League —
delegate to..... 91
Fifth Committee, member of.. 94
Memorandum of Dec. 4, 1920.94–95
speech at..... 93
vice-president of..... 92
withdrawal as..... 107
note of acknowledgement..... 48
Secretary-General, reply to.... 98

Quezada, Sr..... 201

Rajchman, Ludwik..... 176
Restrepo, Dr. Antonio José.....110, 171
Reveillaud, M.....150, 155
Rio Branco, J. Raul do..... 61
Rivas-Vicuña, Manuel.....74, 83, 200
Rodriguez, Dr.....112, 152, 162

Sabrainko, Barbosa Lima..... 73
Saint Germain-en-Laye, convention of..... 83
Salvador:
Bolivia-Paraguay dispute, communication respecting..... 189
financial obligations to League..128, 129–130, 169, 170, 171, 172, 173, 175
Great War, rôle in.....39–40
International Labor Conferences, representation at.....196–197
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
Latin American Bureau, plan for reorganization of.....153–154
League of Nations —
Assemblies, representation at.....128, 130
budget quotas, *see* financial obligations.
codification of international law, favorable to..... 131
Council, election to..... 130
Guerrero, Dr., services of....130–131
International Labor Office, nonmembership in..... 128
joint note of Mar. 17, 1926...67–68
membership, acquisition of.10, 53–54
Ministry of Foreign Affairs, special section on..... 131
protocols amending Covenant, action respecting.....164, 165
Tenth Assembly, Dr. Guerrero president of..... 131
San Martin, Dr. Juan Zorilla de... 22
Santo Domingo, *see* Dominican Republic.

PAGE
Scalea, Prince di..... 149
School of Public Health, Rio de Janeiro..... 177
Scialoja, Vittorio.....81, 100
Second Hague Peace Conference.. 11
Siles, Hernando..... 114
Sixth International Conference of American States, 1928..... 119
Spain:
armaments of "A. B. C." states compared with..... 85
League of Nations —
Council, claim of permanent seat on.....66, 72
withdrawal from League recalled..... 72
Staff Provident Fund..... 118
Supervisory Commission..... 118
Sweden, relinquishment of Council seat by..... 66
Swinderen, M. van..... 84
Switzerland, plan of Aug. 4, 1919.. 94
Szent-Gothard incident..... 119

Tacna-Arica, dispute.....44, 45, 46, 75–82, 103–104, 179
Tarapaca.....45, 46
Tinoco government, non-recognition of.....39, 51–52
Torriente, Cosme de la.....116, 117
Treaty of Mutual Guarantee..... 86

Ugarteche, Pradoy..... 45
United States:
Bolivia-Paraguay dispute, member of commission on..... 188
Bryan-Chamorro treaty..... 38
dispute between Costa Rica and Panamá, mediation of.....121–122
Latin American support in Great War.....11, 16
Monroe doctrine, definition of... 53
Panamá, relations with...124, 125–127
United States Food Administration 36
Universal Postal Union....123, 169, 171
Universal Telegraphic Union, Conference of..... 108
Urrutia, Dr. Francisco José:
Argentine memorandum, proposal respecting..... 99
Committee of Jurists on Interpretation of Art. 19 of Covenant, member of..... 81
Costa Rica, invitation to resume membership to..... 132
Council —
president of, 1928.....71, 72
services on.....72, 111–112
"democratization" of League, statement respecting.....110–111

PAGE
Urrutia, Dr. Francisco José — Continued.
financial obligations, statement respecting..... 171
Health Committee, Latin American representation on..... 177
Latin American group, "spokesman" for..... 161
Permanent Court, composition of..... 110
questions of procedure..... 110
Uruguay, principal representative of..... 109
Uruguay:
Bolivia-Paraguay dispute —
action for settlement of..... 191
communication respecting..188–189
member of commission on.... 188
communications and transit conventions, signature of..... 166
Conference of Health Experts on Infant Mortality..... 176
financial obligations to League... 107, 170, 172, 175
Great War, rôle in —
continental solidarity, doctrine of.....23–25
decrees of neutrality..... 21
neutrality maintained on United States' entrance into War..... 22
severance of diplomatic relations..... 25
unrestricted submarine warfare, note respecting.....21–22
International Labor Conferences, representation at.....196–197, 204
International Labor Organization —
draft conventions, action respecting..... 206
original member..... 195
Latin American Bureau, plan for reorganization of.....153–154
League of Nations —
budget quotas, *see* financial obligations.
compulsory arbitration, support of.....108–109
Council —
election of members, attitude respecting..... 109
member of.....106–107
withdrawal of candidacy for..... 109
Fernandez y Medina, services of..... 107
international education, proposal respecting.....89, 107–108
joint note of Mar. 17, 1926....67–68
membership, acquisition of...10, 51

PAGE

Uruguay — Continued.
mutual assistance, reply to questionnaire on draft treaty of 168
Permanent Court, proposal to widen jurisdiction of 109
policy respecting 106
protocols amending Covenant, action respecting 164, 165
telegraphic services, proposals respecting 108
traffic in women and children, accession to convention on. 167

Valcarcel, Sr 45
Valdes-Mendeville, Jorge 88
Venezuela:
Bolivia-Paraguay dispute, communication respecting 188
convention on supervision of international trade in arms and munitions, ratification of 167
financial obligations to League.. 170, 171, 175
Great War, rôle in 34
International Labor Conferences, representation at 196–197
International Labor Organization, original member of 195
Latin American Bureau, plan for reorganization of 153–154
League of Nations —
Assemblies, representation at. 112
Committee on Intellectual Cooperation, representation on .....,112–113

PAGE

Venezuela — Continued.
compulsory arbitration, support of 112
Council —
elected member of 113
principle of rotation of election to 113
joint note of Mar. 17, 1926....67–68
League of Nations Bureau.... 112
liaison arrangements 146
membership, acquisition of...10, 54
protocols amending Covenant, action respecting 164, 165
subjects dealt with 112
Versailles, treaty of:
Covenant of League, connection with 40–41
International Labor Organization, relation to 195
states ratifying 10, 42
Viera, President 24, 25
Villa, Pancho 40
Villegas, Enrique..88, 90–91, 161, 176, 189
Viviani, René 95

Washington Conference of 1919.... 194, 198–199
Wilson, Woodrow...14, 26, 45, 53, 104

Yañez, Elidoro 88

Zahle, Herluf 84
Zaleski, Auguste 191, 192, 193
Zumeta, César 112, 113, 150, 151, 161, 162, 189, 202

PENNSYLVANIA STATE LIBRARY

1-

;

ie
st

b.

MA

M

Jun